

Introduced by Senator DeSaulnier

January 28, 2013

An act to amend ~~Section 7073.1 of the Government Code, relating to economic development~~ Sections 33080, 33080.1, 33080.2, 33080.8, 33334.2, 33334.3, 33334.4, 33334.12, 33413, 33413.5, 33418, 33487, and 33490 of, to add Sections 33080.9, 33080.11, 33080.12, 33506, and 50464.5 to, to add Article 13 (commencing with Section 33460) to Chapter 4 of Part 1 of Division 24 of, and to repeal and add Section 33334.16 of, the Health and Safety Code, relating to redevelopment .

LEGISLATIVE COUNSEL'S DIGEST

SB 133, as amended, DeSaulnier. ~~Enterprise—zones: applications.~~ *Redevelopment.*

(1) The Community Redevelopment Law requires that each redevelopment agency submit the final report of any audit undertaken by any other local, state, or federal government entity to its legislative body and to additionally present an annual report to the legislative body containing specified information.

This bill would require the agency to include additional information relating to any major audit violations, as defined, any corrections to those violations, and planning and general administrative expenses of the Low and Moderate Income Housing Fund. The bill would authorize the Controller to conduct quality control reviews of independent financial audit reports and require the Controller to publish the results of his or her reviews. The bill would require the Controller to comply with certain notification and referral provisions in the event that the

audit was conducted in a manner that may constitute unprofessional conduct.

The bill would require the Department of Housing and Community Development to conduct audits of redevelopment agencies to ensure compliance with the housing provisions of the Community Redevelopment Law. The bill would require each agency to annually deposit 0.05% of any tax increment deposited into the Low and Moderate Income Housing Fund into the Redevelopment Agency Accountability Fund, which the bill would create, to fund the department audits.

(2) Existing law requires that funds used for purposes of increasing, improving, and preserving a community's supply of low- and moderate-income housing be held in a separate Low and Moderate Income Housing Fund until used. Existing law limits the planning and general administrative costs which may be paid with moneys from the Low and Moderate Income Housing Fund.

The bill would revise the costs and expenses which may be considered planning and general administrative costs for the purposes of being paid from the Low and Moderate Income Housing Fund. Except as provided, the bill would prohibit an agency from expending more than 15% of the tax increment deposited in the fund for planning and general administrative costs. The bill would impose other reporting and accountability measures on agencies with respect to the use of moneys in the fund for planning and administrative purposes. The bill would revise various provisions governing an action to compel agency compliance with specified provisions.

(3) Existing law requires, except as specified, each agency to expend over each 10-year period of the implementation plan, the moneys in the Low and Moderate Income Housing Fund to assist housing for persons of moderate, low, and very low income according to specified calculations.

The bill would instead require that at least 75% of the agency's expenditures from the fund directly assist the new construction, acquisition and substantial rehabilitation, or preservation of housing for persons of extremely low, very low, low, or moderate income, with at least 25% of the expenditures required to be directed towards housing for persons of extremely low income and at least 50% of the expenditures required to be directed towards housing for persons of very low income.

(4) Existing law authorizes a redevelopment agency to merge project areas under its jurisdiction, and requires that at least 20% of specified taxes allocated to the redevelopment agency be deposited into the Low

and Moderate Income Housing Fund to assist in the construction or rehabilitation of housing units for very low, and low- and moderate-income households, as specified. Existing law requires that if those funds have not been committed for that purpose within 6 years, the agency shall offer the funds to the housing authority that operates within the jurisdiction of the agency, as specified.

This bill would delete the requirement that the funds be offered to the housing authority.

(5) Existing law requires an agency that has failed to expend or encumber excess surplus in the Low and Moderate Income Housing Fund within one year to disburse the surplus voluntarily to the appropriate county housing authority or another public agency or to expend or encumber the surplus within 2 additional years.

The bill would delete these provisions. The bill would modify the definition of the term “excess surplus.”

(6) Existing law provides that whenever low- or moderate-income housing dwelling units are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment that is subject to a written agreement with the agency, or where financial assistance has been provided by the agency, the agency is required to provide replacement housing within 4 years of the destruction or removal.

The bill would modify the agency’s obligation to provide replacement housing to low- or moderate-income persons and families and would impose new requirements on the agency with respect to the replacement housing plan and housing specifications. If a court has found that an agency has failed to comply with these provisions, the bill would require the court, at a minimum, to issue an order temporarily prohibiting the agency from issuing any debt for any project area, except as specified.

(7) This bill would become operative contingent upon the enactment of SB 341 of the 2012–13 Regular Session.

~~The Enterprise Zone Act provides for the designation of enterprise zones by the Department of Housing and Community Development, based on the department’s approval of applications from a city, county, or city and county with a geographic area meeting certain criteria. The act, among other things, sets forth the application process.~~

~~This bill, for any application for an enterprise zone designation submitted on or after January 1, 2014, if any portion of the proposed zone is within, or was previously within, the boundaries of a previously designated zone, or if any portions of the proposed zone are within, or~~

~~previously were within, the boundaries of 2 or more previously designated enterprise zones, would prohibit the proposed enterprise zone from exceeding a specified aggregate size.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 33080 of the Health and Safety Code is*
2 *amended to read:*

3 33080. (a) Every redevelopment agency shall file with the
4 Controller within six months of the end of the agency's fiscal year
5 a copy of the report required by Section 33080.1. In addition, each
6 redemption agency shall file with the department a copy of the
7 audit report required by subdivision (a) of Section 33080.1. The
8 reports shall be made in the time, format, and manner prescribed
9 by the Controller after consultation with the department.

10 (b) The redevelopment agency shall provide a copy of the report
11 required by Section 33080.1, upon the written request of any person
12 or any taxing agency. If the report does not include detailed
13 information regarding administrative costs, professional services,
14 or other expenditures *required under Section 33080.1*, the person
15 or taxing agency may request, and the redevelopment agency shall
16 provide, that information. ~~The person or taxing agency shall~~
17 ~~reimburse the redevelopment agency for all actual and reasonable~~
18 ~~costs incurred in connection with the provision of the requested~~
19 ~~information, upon payment of fees covering the direct costs of~~
20 ~~duplication.~~

21 *SEC. 2. Section 33080.1 of the Health and Safety Code is*
22 *amended to read:*

23 33080.1. Every redevelopment agency shall submit the final
24 report of any audit undertaken by any other local, state, or federal
25 government entity to its legislative body within 30 days of receipt
26 of that audit report. In addition, every redevelopment agency shall
27 present an annual report to its legislative body *at a public hearing*
28 *and make the report available on its Internet Web site, or if the*
29 *agency does not have an Internet Web site, on the community's*
30 *Internet Web site*, within six months of the end of the agency's
31 fiscal year. The annual report shall contain all of the following:

(a) (1) An independent financial audit report for the previous fiscal year. “Audit report” means an examination of, and opinion on, the financial statements of the agency which present the results of the operations and financial position of the agency, including all financial activities with moneys required to be held in a separate Low and Moderate Income Housing Fund pursuant to Section 33334.3. This audit shall be conducted by a certified public accountant or public accountant, licensed by the State of California, in accordance with Government Auditing Standards adopted by the Comptroller General of the United States. The audit report shall meet, at a minimum, the audit guidelines prescribed by the Controller’s office pursuant to Section 33080.3 and also include a report on the agency’s compliance with laws, regulations, and administrative requirements governing activities of the agency, and a calculation of the excess surplus in the Low and Moderate Income Housing Fund as defined in subdivision (g) of Section 33334.12. *The audit report shall include a statement from the auditor as to whether or not the agency has any major audit violations, as defined in subdivision (j) of Section 33080.8.*

(2) *A statement describing each corrective measure taken in that fiscal year to correct major audit violations identified during or prior to that fiscal year by the agency, its auditor, or the Department of Housing and Community Development.*

~~(2)~~
(3) However, the legislative body may elect to omit from inclusion in the audit report any distinct activity of the agency that is funded exclusively by the federal government and that is subject to audit by the federal government.

(b) A fiscal statement for the previous fiscal year that contains the information required pursuant to Section 33080.5.

(c) A description of the agency’s activities in the previous fiscal year affecting housing and displacement that contains the information required by Sections 33080.4 and 33080.7.

(d) A description of the agency’s progress, including specific actions and expenditures, in alleviating blight in the previous fiscal year.

(e) A list of, and status report on, all loans made by the redevelopment agency that are fifty thousand dollars (\$50,000) or more, that in the previous fiscal year were in default, or not in

1 compliance with the terms of the loan approved by the
2 redevelopment agency.

3 (f) A description of the total number and nature of the properties
4 that the agency owns and those properties the agency has acquired
5 in the previous fiscal year.

6 (g) A list of the fiscal years that the agency expects each of the
7 following time limits to expire:

8 (1) The time limit for the commencement for eminent domain
9 proceedings to acquire property within the project area.

10 (2) The time limit for the establishment of loans, advances, and
11 indebtedness to finance the redevelopment project.

12 (3) The time limit for the effectiveness of the redevelopment
13 plan.

14 (4) The time limit to repay indebtedness with the proceeds of
15 property taxes.

16 (h) *All of the following relating to the agency's planning and
17 general administrative expenses for the most recently completed
18 fiscal year paid from the Low and Moderate Income Housing Fund:*

19 (1) *The amount and percentage of funds deposited into the Low
20 and Moderate Income Housing Fund, exclusive of debt proceeds,
21 expended for planning and general administrative costs described
22 in subparagraphs (A), (C), (D), and (E) of paragraph (1) of
23 subdivision (d) of Section 33334.3.*

24 (2) *The amount and percentage of funds deposited into the Low
25 and Moderate Income Housing Fund, exclusive of debt proceeds,
26 expended for planning and general administrative costs described
27 in subparagraph (B) of paragraph (1) of subdivision (d) of Section
28 33334.3.*

29 (3) *Consistent with the categories described in paragraph (1)
30 of subdivision (d) of Section 33334.3, an itemization of each
31 category of planning and general administration expenditures
32 from the Low and Moderate Income Housing Fund and an explicit
33 description of how the expenditures are necessary for the
34 production, improvement, or preservation of low- and
35 moderate-income housing.*

36 (4) *A list of the title of any agency, city, or county employees
37 for whom any portion of his or her salary, wages, benefits, or
38 nonpersonnel costs is paid from the Low and Moderate Income
39 Housing Fund, the nature of the employee's activities eligible to
40 be paid from the Low and Moderate Income Housing Fund, the*

1 *percentage of time the employee spends on activities eligible to*
2 *be paid from the Low and Moderate Income Housing Fund, the*
3 *percentage of time the employee spends on activities that are*
4 *directly and necessarily associated with a specific eligible housing*
5 *development project or to the direct administration of programs,*
6 *and the percentage of the employee's salary, wages, benefits, and*
7 *nonpersonnel costs paid from the Low and Moderate Income*
8 *Housing Fund.*

9 (5) *A list of any overhead costs that are paid directly or*
10 *indirectly from the Low and Moderate Income Housing Fund, an*
11 *identification by title and department of any other employees with*
12 *whom the overhead costs are shared, and a description of the total*
13 *cost of the shared overhead costs.*

14 (i) *A statement of the amount and percentage of funds deposited*
15 *into the Low and Moderate Income Housing Fund, exclusive of*
16 *debt proceeds, expended for planning and general administration*
17 *in each of the preceding five fiscal years that begin after December*
18 *31, 2011, broken down by the categories described in paragraph*
19 *(1) of subdivision (d) of Section 33334.3.*

20 (j) *A list of all real properties owned by the agency and*
21 *purchased with funds from the Low and Moderate Income Housing*
22 *Fund, the date of acquisition for each property, the agency's*
23 *intended purpose for each property, a statement of the amount, if*
24 *any, of moneys from the Low and Moderate Income Housing Fund*
25 *used to acquire the property, and a statement of the amount, if*
26 *any, of moneys from the Low and Moderate Income Housing Fund*
27 *used to maintain the property.*

28 (k) *A list of the redevelopment projects that have caused a*
29 *replacement obligation pursuant to subdivision (a) of Section*
30 *33413, the respective number of units the agency is obligated to*
31 *replace as a result of each project, and the location and status of*
32 *the replacement units. This list shall cover each fiscal year from*
33 *the agency's last adopted implementation plan.*

34 (l) *A separate list of the development projects that have caused*
35 *a production obligation pursuant to subdivision (b) of Section*
36 *33413, the respective number of units the agency is obligated to*
37 *produce as a result of each project, and the location and status of*
38 *the production units. This list shall cover each fiscal year from*
39 *the agency's last adopted implementation plan.*

1 (m) For each housing project for which the agency has
2 designated funds, encumbered funds, or amended an existing
3 designation or encumbrance of funds during the fiscal year, and
4 where the agency's financing constitutes more than 50 percent of
5 the total cost of the low- and moderate-income housing units in
6 the project, the project name, location, number of affordable units,
7 affordability level, amount of agency financing, and the total cost
8 of the low- and moderate-income units.

9 (n) An agency that has deposited less than one hundred thousand
10 dollars (\$100,000) into its Low and Moderate Income Housing
11 Fund during the fiscal year is not required to provide in its annual
12 report the information described in subdivisions (h) to (m),
13 inclusive.

14 ~~(h)~~

15 (o) Any other information that the agency believes useful to
16 explain its programs, including, but not limited to, the number of
17 jobs created and lost in the previous fiscal year as a result of its
18 activities.

19 SEC. 3. Section 33080.2 of the Health and Safety Code is
20 amended to read:

21 33080.2. (a) When the agency presents the annual report to
22 the legislative body pursuant to Section 33080.1, the agency shall
23 inform the legislative body of any major audit violations of this
24 part based on the independent financial audit report *or an audit*
25 *investigation conducted by the department*. The agency shall inform
26 the legislative body that the failure to correct a major audit
27 violation of this part may result in the filing of an action by the
28 Attorney General pursuant to Section 33080.8 *in a form that*
29 *indicates whether a referral to the Attorney General has been*
30 *made*.

31 (b) At the time the agency presents the annual report to the
32 legislative body pursuant to Section 33080.1, the legislative body
33 shall adopt a separate written resolution making a finding, based
34 on substantial evidence in the record, that the actual planning and
35 general administrative expenses for the most recently completed
36 fiscal year paid from the Low and Moderate Income Housing Fund
37 did not exceed the limits established in subparagraphs (A) and (B)
38 of paragraph (2) of subdivision (d) of Section 33334.3 or that the
39 exception in subparagraph (C) of paragraph (2) of subdivision (d)
40 of Section 33334.3 applies.

1 ~~(b)~~

2 (c) The legislative body shall review any report submitted
3 pursuant to Section 33080.1 and take any action it deems
4 appropriate on that report no later than the first meeting of the
5 legislative body occurring more than 21 days from the receipt of
6 the report.

7 *SEC. 4. Section 33080.8 of the Health and Safety Code is*
8 *amended to read:*

9 33080.8. (a) On or before April 1 of each year, the Controller
10 shall compile a list of agencies that appear to have major audit
11 violations as defined in this section, based on the independent
12 financial audit reports filed with the Controller pursuant to Section
13 33080, *and make the list available on the Controller's Internet*
14 *Web site.*

15 (b) On or before June 1 of each year, for each major audit
16 violation of each agency identified pursuant to subdivision (a), the
17 Controller shall determine if the agency has corrected the major
18 audit violation. Before making this determination, the Controller
19 shall consult with each affected agency *and may consult with*
20 *affected local community groups.* In making this determination,
21 the Controller may request and shall receive the prompt assistance
22 of public officials and public agencies, including, but not limited
23 to, the affected agencies, counties, and cities. If the Controller
24 determines that an agency has not corrected the major audit
25 violation, the Controller shall send a list of those agencies, their
26 major violations, all relevant documents, and the affidavits required
27 pursuant to subdivision (d) to the Attorney General for action
28 pursuant to this section.

29 (c) For each agency that the Controller refers to the Attorney
30 General pursuant to subdivision (b), the Controller shall notify the
31 agency and the legislative body that the agency was on the list sent
32 to the Attorney General. The Controller's notice shall inform the
33 agency and the legislative body of the duties imposed by Section
34 33080.2.

35 (d) Within 45 days of receiving the referral from the Controller
36 pursuant to subdivision (b), the Attorney General shall determine
37 whether to file an action to compel the agency's compliance with
38 this part. Any action filed pursuant to this section shall be
39 commenced in the ~~County of Sacramento~~ *superior court of any*
40 *county in which the Attorney General has an office.* The time limit

1 for the Attorney General to make this determination is directory
2 and not mandatory. Any action shall be accompanied by an
3 affidavit or affidavits, to be provided by the Controller with the
4 referral, setting forth facts that demonstrate a likelihood of success
5 on the merits of the claim that the agency has a major audit
6 violation. The affidavit shall also certify that the agency and the
7 legislative body were informed not less than 10 days prior to the
8 date on which the action was filed. The agency shall file a response
9 to any action filed by the Attorney General pursuant to this section
10 within 15 days of service.

11 (e) (1) On the earliest day that the business of the court will
12 permit, but not later than 45 days after the filing of an action
13 pursuant to this section, the court shall conduct a hearing to
14 determine if good cause exists for believing that the agency has a
15 major audit violation and has not corrected that violation.

16 (2) If the court determines that no good cause exists or that the
17 agency had a major audit violation but corrected the major audit
18 violation, the court shall dismiss the action.

19 (3) If the court determines that there is good cause for believing
20 that the agency has a major audit violation and has not corrected
21 that major audit violation, the court shall immediately issue an
22 order that prohibits the agency from doing any of the following:

23 (A) Encumbering any funds or expending any money derived
24 from any source except to pay the obligations designated in
25 subparagraphs (A) to ~~(G)~~, (F), inclusive, of paragraph (1) of
26 subdivision (e) of Section 33334.12, *or to pay amounts for the*
27 *operation and administration of the agency in accordance with*
28 *the agency's most recently adopted budget.*

29 (B) Adopting a redevelopment plan.

30 (C) Amending a redevelopment plan except to correct the major
31 audit violation that is the subject of the action.

32 (D) Issuing, selling, offering for sale, or delivering any bonds
33 or any other evidence of indebtedness, *except to increase, improve,*
34 *preserve, or assist in the construction or rehabilitation of, housing*
35 *units that will be occupied by and affordable to persons or families*
36 *of extremely low, very low, low, or moderate income, in accordance*
37 *with this part.*

38 (E) Incurring any indebtedness, *except to increase, improve,*
39 *preserve, or assist in the construction or rehabilitation of, housing*
40 *units that will be occupied by and affordable to persons or families*

1 *of extremely low, very low, low, or moderate income, in accordance*
2 *with this part.*

3 *(F) Exercising the power of eminent domain.*

4 (f) In a case that is subject to paragraph (3) of subdivision (e),
5 the court shall also set a hearing on the matter within 60 days *after*
6 *issuance of the order.*

7 (g) If, on the basis of that subsequent hearing, the court
8 determines that the agency has a major audit violation and has not
9 corrected that violation, the court shall order the agency to comply
10 with this part within 30 days, and order the agency to forfeit to the
11 state ~~no more than:~~ *a monetary sanction commensurate with the*
12 *violation. The sanction shall not be paid from the agency's Low*
13 *and Moderate Income Housing Fund or any other city, county, or*
14 *agency special fund related to housing.*

15 ~~(1) Two thousand dollars (\$2,000) in the case of a community~~
16 ~~redevelopment agency with a total revenue, in the prior year, of~~
17 ~~less than one hundred thousand dollars (\$100,000) as reported in~~
18 ~~the Controller's annual financial reports.~~

19 ~~(2) Five thousand dollars (\$5,000) in the case of a community~~
20 ~~redevelopment agency with a total revenue, in the prior year, of~~
21 ~~at least one hundred thousand dollars (\$100,000) but less than two~~
22 ~~hundred fifty thousand dollars (\$250,000) as reported in the~~
23 ~~Controller's annual financial reports.~~

24 ~~(3) Ten thousand dollars (\$10,000) in the case of a community~~
25 ~~redevelopment agency with a total revenue, in the prior year, of~~
26 ~~at least two hundred fifty thousand dollars (\$250,000) as reported~~
27 ~~in the Controller's annual financial reports.~~

28 (h) The order issued by the court pursuant to paragraph (3) of
29 subdivision (e) shall continue in effect until the court determines
30 that the agency has corrected the major audit violation. If the court
31 determines that the agency has corrected the major audit violation,
32 the court may dissolve its order issued pursuant to paragraph (3)
33 of subdivision (e) at any time.

34 (i) An action filed pursuant to this section to compel an agency
35 to comply with this part is in addition to any other remedy, and is
36 not an exclusive means to compel compliance. *This section shall*
37 *not be construed to preclude an action to compel compliance with*
38 *this article by any other interested party or resident of the*
39 *jurisdiction.*

(j) As used in this section, “major audit violation” means that, for the fiscal year in question, an agency did not:

(1) File an independent financial audit report that substantially conforms with the requirements of subdivision (a) of Section 33080.1.

(2) File a fiscal statement that includes substantially all of the information required by Section 33080.5.

(3) Establish time limits, as required by Section 33333.6.

(4) Deposit all required tax increment revenues *and all other funds required to be deposited into the fund* directly into the Low and Moderate Income Housing Fund upon receipt, as required by Section 33334.3, 33334.6, 33487, or 33492.16.

(5) Establish a Low and Moderate Income Housing Fund, as required by subdivision (a) of Section 33334.3 *or Section 33487*.

(6) Accrue interest earned by the Low and Moderate Income Housing Fund to that fund, as required by subdivision (b) of Section 33334.3.

~~(7) Determine that the planning and administrative costs charged to Comply with subdivisions (d) and (e) of Section 33334.3, governing eligible expenditures for planning and general administration from the Low and Moderate Income Housing Fund are necessary for the production, improvement, or preservation of low- and moderate-income housing, as and adopt the resolution required by subdivision (d) (b) of Section 33334.3 33080.2.~~

(8) Initiate development of housing on real property acquired using moneys from the Low and Moderate Income Housing Fund or sell the property, as required by Section 33334.16.

(9) Adopt an implementation plan, as required by Section 33490.

SEC. 5. Section 33080.9 is added to the Health and Safety Code, to read:

33080.9. (a) (1) The department shall forward to the Attorney General and the Controller a copy of any audit or investigation of a redevelopment agency conducted pursuant to Section 50464.5.

(2) On or before April 1 of each year, the department shall determine for all audits and investigations conducted the previous year, including those audits and investigations conducted pursuant to Section 50464.5, whether an audit or investigation contains major audit violations, as defined in subdivision (j) of Section

1 33080.8. *The department shall make the information available on*
2 *its Internet Web site.*

3 (b) *On or before June 1 of each year, the department shall*
4 *determine for each major audit violation identified pursuant to*
5 *subdivision (a) if the agency has corrected the major audit*
6 *violation. Before making this determination, the department shall*
7 *consult with each affected agency and may consult with affected*
8 *local community groups. In making this determination, the*
9 *department may request and shall receive the prompt assistance*
10 *of public officials and public agencies, including, but not limited*
11 *to, the affected agencies, counties, and cities. If the department*
12 *determines an agency has not corrected the major audit violation,*
13 *the department shall send a list of those agencies, their major audit*
14 *violations, all relevant documentation, and the affidavits required*
15 *pursuant to subdivision (e) to the Attorney General for any action*
16 *pursuant to this section.*

17 (c) *For each agency the department refers to the Attorney*
18 *General pursuant to subdivision (b), the department shall notify*
19 *the agency and its legislative body that the agency was on the list*
20 *sent to the Attorney General. The notice shall inform the agency*
21 *and its legislative body of the duties imposed pursuant to Section*
22 *33080.2.*

23 (d) *For each agency the department refers to the Attorney*
24 *General pursuant to subdivision (b), the provisions of subdivisions*
25 *(d) to (i), inclusive, of Section 33080.8 shall apply, except that*
26 *references to the Controller in those subdivisions shall be deemed*
27 *to refer to the department.*

28 (e) *Nothing in this section shall be construed to permit the*
29 *department to initiate or settle litigation, or to resolve any*
30 *departmental audit or investigation in a manner contrary to law.*

31 SEC. 6. *Section 33080.11 is added to the Health and Safety*
32 *Code, to read:*

33 33080.11. (a) *The Controller may conduct quality control*
34 *reviews of independent financial and compliance audit reports*
35 *required by Section 33080.1 to the extent it is feasible to do so*
36 *within existing budgetary resources. The Controller shall*
37 *communicate the results of his or her reviews to the independent*
38 *auditor and the agency for which the audit was conducted, and*
39 *shall review his or her findings with the independent auditor.*

(b) If the quality control review specified in subdivision (a) indicates the audit was conducted in a manner that may constitute unprofessional conduct, as defined in Section 5100 of the Business and Professions Code, including, but not limited to, gross negligence resulting in a material misstatement in the audit or failure to disclose noncompliant acts, the Controller shall refer the case to the California Board of Accountancy. If the board determines that the independent auditor conducted an audit in an unprofessional manner, the independent auditor is prohibited from performing any redevelopment agency audit for a period of three years, in addition to any other penalties the board may impose.

SEC. 7. Section 33080.12 is added to the Health and Safety Code, to read:

33080.12. (a) (1) Whenever the Controller determines through two consecutive quality control reviews, pursuant to Section 33080.11, that audits performed by an independent auditor pursuant to Section 33080.1 were not performed in substantial conformity with provisions of the audit and report guidelines adopted pursuant to Section 33080.3, the Controller shall notify in writing the independent auditor and the California Board of Accountancy.

(2) If the independent auditor does not file an appeal in writing to the board within 30 calendar days after receipt of the Controller's notification, the Controller's determination under this section shall be final.

(3) If an appeal is filed with the California Board of Accountancy, the board shall complete an investigation of the appeal. On the basis of the investigation, the board may do either of the following:

(A) Find the Controller's determination should not be upheld and has no effect.

(B) Schedule the appeal for a hearing.

(b) If the Controller's determination pursuant to subdivision (a) becomes final, the independent auditor shall be ineligible to conduct audits pursuant to Section 33080.1 for a period of three years, or, in the event of an appeal, for any period and subject to conditions that may be ordered by the California Board of Accountancy. No later than March 1 following the date on which the Controller's determination becomes final, the Controller shall notify each agency of those independent auditors determined to

1 *be ineligible under this section or Section 33080.11. Agencies shall*
2 *not use the audit services of an independent auditor ineligible*
3 *under this section.*

4 *(c) For the purposes of this section, “independent auditor” shall*
5 *mean any person or firm entering into a contract to conduct an*
6 *audit under Section 33080.1.*

7 *(d) This section shall not preclude the California Board of*
8 *Accountancy from taking any disciplinary action it deems*
9 *appropriate under any other provisions of law.*

10 *SEC. 8. Section 33334.2 of the Health and Safety Code is*
11 *amended to read:*

12 33334.2. (a) Except as provided in subdivision (k), not less
13 than 20 percent of all taxes that are allocated to the agency pursuant
14 to Section 33670 shall be used by the agency for the purposes of
15 increasing, improving, and preserving the community’s supply of
16 low- and moderate-income housing available at affordable housing
17 cost, as defined by Section 50052.5, to persons and families of
18 low or moderate income, as defined in Section 50093, lower
19 income households, as defined by Section 50079.5, very low
20 income households, as defined in Section 50105, and extremely
21 low income households, as defined by Section 50106, that is
22 occupied by these persons and families, unless one of the following
23 findings is made annually by resolution:

24 (1) (A) That no need exists in the community to improve,
25 increase, or preserve the supply of low- and moderate-income
26 housing, including housing for very low income households in a
27 manner that would benefit the project area and that this finding is
28 consistent with the housing element of the community’s general
29 plan required by Article 10.6 (commencing with Section 65580)
30 of Chapter 3 of Division 1 of Title 7 of the Government Code,
31 including its share of the regional housing needs of very low
32 income households and persons and families of low or moderate
33 income.

34 (B) This finding shall only be made if the housing element of
35 the community’s general plan demonstrates that the community
36 does not have a need to improve, increase, or preserve the supply
37 of low- and moderate-income housing available at affordable
38 housing cost to persons and families of low or moderate income
39 and to very low income households. This finding shall only be
40 made if it is consistent with the planning agency’s annual report

1 to the legislative body on implementation of the housing element
2 required by subdivision (b) of Section 65400 of the Government
3 Code. No agency of a charter city shall make this finding unless
4 the planning agency submits the report pursuant to subdivision (b)
5 of Section 65400 of the Government Code. This finding shall not
6 take effect until the agency has complied with subdivision (b) of
7 this section.

8 (2) (A) That some stated percentage less than 20 percent of the
9 taxes that are allocated to the agency pursuant to Section 33670
10 is sufficient to meet the housing needs of the community, including
11 its share of the regional housing needs of persons and families of
12 low- or moderate-income and very low income households, and
13 that this finding is consistent with the housing element of the
14 community's general plan required by Article 10.6 (commencing
15 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
16 Government Code.

17 (B) This finding shall only be made if the housing element of
18 the community's general plan demonstrates that a percentage of
19 less than 20 percent will be sufficient to meet the community's
20 need to improve, increase, or preserve the supply of low- and
21 moderate-income housing available at affordable housing cost to
22 persons and families of low or moderate income and to very low
23 income households. This finding shall only be made if it is
24 consistent with the planning agency's annual report to the
25 legislative body on implementation of the housing element required
26 by subdivision (b) of Section 65400 of the Government Code. No
27 agency of a charter city shall make this finding unless the planning
28 agency submits the report pursuant to subdivision (b) of Section
29 65400 of the Government Code. This finding shall not take effect
30 until the agency has complied with subdivision (b) of this section.

31 (C) For purposes of making the findings specified in this
32 paragraph and paragraph (1), the housing element of the general
33 plan of a city, county, or city and county shall be current, and shall
34 have been determined by the department pursuant to Section 65585
35 to be in substantial compliance with Article 10.6 (commencing
36 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
37 Government Code.

38 (3) (A) That the community is making a substantial effort to
39 meet its existing and projected housing needs, including its share
40 of the regional housing needs, with respect to persons and families

1 of low and moderate income, particularly very low income
2 households, as identified in the housing element of the
3 community's general plan required by Article 10.6 (commencing
4 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
5 Government Code, and that this effort, consisting of direct financial
6 contributions of local funds used to increase and improve the
7 supply of housing affordable to, and occupied by, persons and
8 families of low or moderate income and very low income
9 households is equivalent in impact to the funds otherwise required
10 to be set aside pursuant to this section. In addition to any other
11 local funds, these direct financial contributions may include federal
12 or state grants paid directly to a community and that the community
13 has the discretion of using for the purposes for which moneys in
14 the Low and Moderate Income Housing Fund may be used. The
15 legislative body shall consider the need that can be reasonably
16 foreseen because of displacement of persons and families of low
17 or moderate income or very low income households from within,
18 or adjacent to, the project area, because of increased employment
19 opportunities, or because of any other direct or indirect result of
20 implementation of the redevelopment plan. No finding under this
21 subdivision may be made until the community has provided or
22 ensured the availability of replacement dwelling units as defined
23 in Section 33411.2 and until it has complied with Article 9
24 (commencing with Section 33410).

25 (B) In making the determination that other financial
26 contributions are equivalent in impact pursuant to this subdivision,
27 the agency shall include only those financial contributions that are
28 directly related to programs or activities authorized under
29 subdivision (e).

30 (C) The authority for making the finding specified in this
31 paragraph shall expire on June 30, 1993, except that the expiration
32 shall not be deemed to impair contractual obligations to
33 bondholders or private entities incurred prior to May 1, 1991, and
34 made in reliance on the provisions of this paragraph. Agencies that
35 make this finding after June 30, 1993, shall show evidence that
36 the agency entered into the specific contractual obligation with
37 the specific intention of making a finding under this paragraph in
38 order to provide sufficient revenues to pay off the indebtedness.

39 (b) Within 10 days following the making of a finding under
40 either paragraph (1) or (2) of subdivision (a), the agency shall send

1 the Department of Housing and Community Development a copy
2 of the finding, including the factual information supporting the
3 finding and other factual information in the housing element that
4 demonstrates that either (1) the community does not need to
5 increase, improve, or preserve the supply of housing for low- and
6 moderate-income households, including very low income
7 households, or (2) a percentage less than 20 percent will be
8 sufficient to meet the community's need to improve, increase, and
9 preserve the supply of housing for low- and moderate-income
10 households, including very low income households. Within 10
11 days following the making of a finding under paragraph (3) of
12 subdivision (a), the agency shall send the Department of Housing
13 and Community Development a copy of the finding, including the
14 factual information supporting the finding that the community is
15 making a substantial effort to meet its existing and projected
16 housing needs. Agencies that make this finding after June 30, 1993,
17 shall also submit evidence to the department of its contractual
18 obligations with bondholders or private entities incurred prior to
19 May 1, 1991, and made in reliance on this finding.

20 (c) In any litigation to challenge or attack a finding made under
21 paragraph (1), (2), or (3) of subdivision (a), the burden shall be
22 upon the agency to establish that the finding is supported by
23 substantial evidence in light of the entire record before the agency.
24 If an agency is determined by a court to have knowingly
25 misrepresented any material facts regarding the community's share
26 of its regional housing need for low- and moderate-income housing,
27 including very low income households, or the community's
28 production record in meeting its share of the regional housing need
29 pursuant to the report required by subdivision (b) of Section 65400
30 of the Government Code, the agency shall be liable for all court
31 costs and plaintiff's attorney's fees, and shall be required to allocate
32 not less than 25 percent of the agency's tax increment revenues to
33 its Low and Moderate Income Housing Fund in each year
34 thereafter.

35 (d) Nothing in this section shall be construed as relieving any
36 other public entity or entity with the power of eminent domain of
37 any legal obligations for replacement or relocation housing arising
38 out of its activities.

39 (e) In carrying out the purposes of this section, the agency may
40 exercise any or all of its powers for the construction, rehabilitation,

1 or preservation of affordable housing for extremely low, very low,
2 low-, and moderate-income persons or families, including the
3 following:

4 (1) Acquire real property or building sites subject to Section
5 33334.16.

6 (2) (A) Improve real property or building sites with onsite or
7 offsite improvements, but only if both (i) the improvements are
8 part of the new construction or rehabilitation of affordable housing
9 units for low- or moderate-income persons that are directly
10 benefited by the improvements, and are a reasonable and
11 fundamental component of the housing units, and (ii) the agency
12 requires that the units remain available at affordable housing cost
13 to, and occupied by, persons and families of extremely low, very
14 low, low, or moderate income for the same time period and in the
15 same manner as provided in subdivision (c) and paragraph (2) of
16 subdivision (f) of Section 33334.3.

17 (B) If the newly constructed or rehabilitated housing units are
18 part of a larger project and the agency improves or pays for onsite
19 or offsite improvements pursuant to the authority in this
20 subdivision, the agency shall pay only a portion of the total cost
21 of the onsite or offsite improvement. The maximum percentage
22 of the total cost of the improvement paid for by the agency shall
23 be determined by dividing the number of housing units that are
24 affordable to low- or moderate-income persons by the total number
25 of housing units, if the project is a housing project, or by dividing
26 the cost of the affordable housing units by the total cost of the
27 project, if the project is not a housing project.

28 (3) Donate real property to private or public persons or entities.

29 (4) Finance insurance premiums pursuant to Section 33136.

30 (5) Construct buildings or structures.

31 (6) Acquire buildings or structures.

32 (7) Rehabilitate buildings or structures.

33 (8) Provide subsidies to, or for the benefit of, extremely low
34 income households, as defined by Section 50106, very low income
35 households, as defined by Section 50105, lower income
36 households, as defined by Section 50079.5, or persons and families
37 of low or moderate income, as defined by Section 50093, to the
38 extent those households cannot obtain housing at affordable costs
39 on the open market. Housing units available on the open market
40 are those units developed without direct government subsidies.

1 (9) Develop plans, pay principal and interest on bonds, loans,
2 advances, or other indebtedness, or pay financing or carrying
3 charges.

4 (10) Maintain the community's supply of mobilehomes.

5 (11) Preserve the availability to lower income households of
6 affordable housing units in housing developments that are assisted
7 or subsidized by public entities and that are threatened with
8 imminent conversion to market rates.

9 (f) The agency may use these funds to meet, in whole or in part,
10 the replacement housing provisions in Section 33413. However,
11 nothing in this section shall be construed as limiting in any way
12 the requirements of that section.

13 (g) (1) The agency may use these funds inside or outside the
14 project area. The agency may only use these funds outside the
15 project area upon a resolution of the agency and the legislative
16 body that the use will be of benefit to the project. The
17 determination by the agency and the legislative body shall be final
18 and conclusive as to the issue of benefit to the project area. The
19 Legislature finds and declares that the provision of replacement
20 housing pursuant to Section 33413 is always of benefit to a project.
21 Unless the legislative body finds, before the redevelopment plan
22 is adopted, that the provision of low- and moderate-income housing
23 outside the project area will be of benefit to the project, the project
24 area shall include property suitable for low- and moderate-income
25 housing.

26 (2) (A) The Contra Costa County Redevelopment Agency may
27 use these funds anywhere within the unincorporated territory, or
28 within the incorporated limits of the City of Walnut Creek on sites
29 contiguous to the Pleasant Hill BART Station Area Redevelopment
30 Project area. The agency may only use these funds outside the
31 project area upon a resolution of the agency and board of
32 supervisors determining that the use will be of benefit to the project
33 area. In addition, the agency may use these funds within the
34 incorporated limits of the City of Walnut Creek only if the agency
35 and the board of supervisors find all of the following:

36 (i) Both the County of Contra Costa and the City of Walnut
37 Creek have adopted and are implementing complete and current
38 housing elements of their general plans that the Department of
39 Housing and Community Development has determined to be in
40 compliance with the requirements of Article 10.6 (commencing

1 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
2 Government Code.

3 (ii) The development to be funded shall not result in any
4 residential displacement from the site where the development is
5 to be built.

6 (iii) The development to be funded shall not be constructed in
7 an area that currently has more than 50 percent of its population
8 comprised of racial minorities or low-income families.

9 (iv) The development to be funded shall allow construction of
10 affordable housing closer to a rapid transit station than could be
11 constructed in the unincorporated territory outside the Pleasant
12 Hill BART Station Area Redevelopment Project.

13 (B) If the agency uses these funds within the incorporated limits
14 of the City of Walnut Creek, all of the following requirements
15 shall apply:

16 (i) The funds shall be used only for the acquisition of land for,
17 and the design and construction of, the development of housing
18 containing units affordable to, and occupied by, low- and
19 moderate-income persons.

20 (ii) If less than all the units in the development are affordable
21 to, and occupied by, low- or moderate-income persons, any agency
22 assistance shall not exceed the amount needed to make the housing
23 affordable to, and occupied by, low- or moderate-income persons.

24 (iii) The units in the development that are affordable to, and
25 occupied by, low- or moderate-income persons shall remain
26 affordable for a period of at least 55 years.

27 (iv) The agency and the City of Walnut Creek shall determine,
28 if applicable, whether Article XXXIV of the California Constitution
29 permits the development.

30 (h) The Legislature finds and declares that expenditures or
31 obligations incurred by the agency pursuant to this section shall
32 constitute an indebtedness of the project.

33 (i) This section shall only apply to taxes allocated to a
34 redevelopment agency for which a final redevelopment plan is
35 adopted on or after January 1, 1977, or for any area that is added
36 to a project by an amendment to a redevelopment plan, which
37 amendment is adopted on or after the effective date of this section.
38 An agency may, by resolution, elect to make all or part of the
39 requirements of this section applicable to any redevelopment
40 project for which a redevelopment plan was adopted prior to

1 January 1, 1977, subject to any indebtedness incurred prior to the
2 election.

3 (j) (1) (A) An action to compel compliance with the
4 requirement of Section 33334.3 to deposit not less than 20 percent
5 of all taxes that are allocated to the agency pursuant to Section
6 33670 *or other revenue* in the Low and Moderate Income Housing
7 Fund shall be commenced within 10 years of the alleged violation.
8 A cause of action for a violation accrues on the last day of the
9 fiscal year in which the funds were required to be deposited in the
10 Low and Moderate Income Housing Fund.

11 (B) An action to compel compliance with the requirement of
12 this section or Section 33334.6 that money deposited in the Low
13 and Moderate Income Housing Fund be used by the agency for
14 purposes of increasing, improving, and preserving the community's
15 supply of low- and moderate-income housing available at
16 affordable housing cost shall be commenced within 10 years of
17 the alleged violation. A cause of action for a violation accrues on
18 the date of the actual expenditure of the funds.

19 (C) An agency found to have deposited less into the Low and
20 Moderate Income Housing Fund than mandated by Section 33334.3
21 or to have spent money from the Low and Moderate Income
22 Housing Fund for purposes other than increasing, improving, and
23 preserving the community's supply of low- and moderate-income
24 housing, as mandated, by this section or Section 33334.6 shall
25 repay the funds with interest, *plus an additional 50 percent of that*
26 *amount and interest*, in one lump sum pursuant to Section 970.4
27 or 970.5 of the Government Code or may do either of the
28 following:

29 (i) Petition the court under Section 970.6 for repayment in
30 installments.

31 (ii) Repay the portion of the judgment due to the Low and
32 Moderate Income Housing Fund in equal installments over a period
33 of five years following the judgment.

34 (D) *An action to compel compliance with the requirements of*
35 *Section 33487 shall be commenced within 10 years of the alleged*
36 *violation. A cause of action accrues on the last day of the fiscal*
37 *year in which the funds were required to be deposited in the Low*
38 *and Moderate Income Housing Fund or the date of the actual*
39 *expenditure of the funds, as applicable. In the event the deposits*
40 *to the Low and Moderate Income Housing Fund are less than the*

1 *amounts required pursuant to Section 33487, or the expenditures*
 2 *from the Low and Moderate Income Housing Fund are not*
 3 *consistent with Section 33487, the repayment required by*
 4 *subparagraph (C) is applicable. This subparagraph applies to*
 5 *actions filed on or after January 1, 2012.*

6 (2) Repayment shall not be made from the funds required to be
 7 set aside or used for low- and moderate-income housing pursuant
 8 to this ~~section~~ *part, or any other funds designated for affordable*
 9 *housing.*

10 (3) Notwithstanding clauses (i) and (ii) of subparagraph (C) *or*
 11 *subparagraph (D) of paragraph (1), all costs, including reasonable*
 12 *attorney's fees if included in the judgment, are due and shall be*
 13 *paid upon entry of judgment or order.*

14 (4) Except as otherwise provided in this subdivision, Chapter
 15 2 (commencing with Section 970) of Part 5 of Division 3.6 of Title
 16 1 of the Government Code for the enforcement of a judgment
 17 against a local public entity applies to a judgment against a local
 18 public entity that violates this section.

19 (5) ~~This~~ *Except as provided in subparagraph (D) of paragraph*
 20 *(1), this subdivision applies to actions filed on and after January*
 21 *1, 2006.*

22 (6) The limitations period specified in subparagraphs (A), (B),
 23 and ~~(B)~~ *(D) of paragraph (1) does not apply to a cause of action*
 24 *brought pursuant to Chapter 9 (commencing with Section 860) of*
 25 *Title 10 of Part 2 of the Code of Civil Procedure.*

26 (k) (1) From July 1, 2009, to June 30, 2010, inclusive, an agency
 27 may suspend all or part of its required allocation to the Low and
 28 Moderate Income Housing Fund from taxes that are allocated to
 29 that agency pursuant to Section 33670.

30 (2) An agency that suspends revenue pursuant to paragraph (1)
 31 shall pay back to its low- and moderate-income housing fund the
 32 amount of revenue that was suspended in the 2009–10 fiscal year
 33 pursuant to this subdivision from July 1, 2010, to June 30, 2015,
 34 inclusive.

35 (3) An agency that suspends revenue pursuant to paragraph (1)
 36 and fails to repay or have repaid on its behalf the amount of revenue
 37 suspended pursuant to paragraph (2) shall, commencing July 1,
 38 2015, be required to allocate an additional 5 percent of all taxes
 39 that are allocated to that agency pursuant to Section 33670 for low-
 40 and moderate-income housing for the remainder of the time that

1 the agency receives allocations of tax revenue pursuant to Section
2 33670.

3 (4) An agency that fails to pay or have paid on its behalf the
4 full amount calculated pursuant to subparagraph (J) of paragraph
5 (2) of subdivision (a) of Section 33690, or subparagraph (J) of
6 paragraph (2) of subdivision (a) of Section 33690.5, as the case
7 may be, shall, commencing July 1, 2010, or July 1, 2011, as
8 applicable, be required to allocate an additional 5 percent of all
9 taxes that are allocated to that agency pursuant to Section 33670
10 for low- and moderate-income housing for the remainder of the
11 time that the agency receives allocations of tax revenue pursuant
12 to Section 33670.

13 *SEC. 9. Section 33334.3 of the Health and Safety Code is*
14 *amended to read:*

15 33334.3. (a) The funds that are required by Section 33334.2
16 or 33334.6 to be used for the purposes of increasing, improving,
17 and preserving the community's supply of low- and
18 moderate-income housing shall be held in a separate Low and
19 Moderate Income Housing Fund until used.

20 (b) Any interest earned by the Low and Moderate Income
21 Housing Fund and any repayments or other income to the agency
22 for loans, advances, or grants, of any kind from the Low and
23 Moderate Income Housing Fund, shall accrue to and be deposited
24 in, the fund and may only be used in the manner prescribed for the
25 Low and Moderate Income Housing Fund.

26 (c) The moneys in the Low and Moderate Income Housing Fund
27 shall be used to increase, improve, and preserve the supply of low-
28 and moderate-income housing within the territorial jurisdiction of
29 the agency.

30 (d) (1) It is the intent of the Legislature that the Low and
31 Moderate Income Housing Fund be used to the maximum extent
32 possible to defray the ~~costs of production, improvement, and~~
33 ~~preservation of~~ *actual cost of producing, improving, or preserving*
34 ~~low- and moderate-income housing and that to restrict the amount~~
35 ~~of money spent use of Low and Moderate Income Housing Fund~~
36 *moneys for planning and general administrative activities associated*
37 ~~with the development, improvement, and preservation of that~~
38 ~~housing not be disproportionate to the amount actually spent for~~
39 ~~the costs of production, improvement, or preservation of that~~
40 ~~housing. The agency shall determine annually that the planning~~

1 ~~and administrative expenses are necessary for the production,~~
2 ~~improvement, or preservation of low- and moderate-income~~
3 ~~housing.~~ costs to those which are necessary for and directly related
4 to lawful use of the Low and Moderate Income Housing Fund. All
5 of the following categories of costs paid from the Low and
6 Moderate Income Housing Fund shall be considered planning and
7 general administrative costs that are subject to the restrictions set
8 forth in paragraph (2):

9 (A) Employee compensation costs, including salaries, wages,
10 and benefits, and related nonpersonnel costs, including, but not
11 limited to, travel, training, publications, and conferences, paid to
12 or on behalf of any agency, city, or county employee whose duties
13 include activities authorized under subdivision (e) of Section
14 33334.2, except for those activities that are necessary for and
15 directly related to the development of a specific eligible housing
16 development project or the deliverance of eligible programs serving
17 low- and moderate-income households. If the employee spends
18 any time on matters other than those authorized under subdivision
19 (e) of Section 33334.2, Low and Moderate Income Housing Fund
20 moneys may only be used to pay for employee compensation and
21 related nonpersonnel costs in proportion to the actual time that
22 the employee spends on activities authorized under subdivision
23 (e) of Section 33334.2.

24 (B) Employee compensation costs, including salaries, wages,
25 and benefits, and related nonpersonnel costs, including, but not
26 limited to, travel, training, publications, and conferences, paid to
27 or on behalf of any agency, city, or county employee for activities
28 authorized under subdivision (e) of Section 33334.2 that are
29 necessary for and directly related to the development of a specific
30 eligible housing development project or the deliverance of eligible
31 programs that serve low- and moderate-income households. Those
32 activities shall include negotiation and project management of
33 disposition and development agreements, land leases, loan
34 agreements, and similar affordable housing agreements;
35 redevelopment agency work on entitlements for eligible affordable
36 housing developments; loan processing and servicing; inspection
37 of new and rehabilitated units; construction monitoring of an
38 eligible housing development; and monitoring of affordable
39 housing units. If the employee spends any time on matters other
40 than those authorized under subdivision (e) of Section 33334.2,

1 *Low and Moderate Income Housing Fund moneys may only be*
2 *used to pay for employee compensation and related nonpersonnel*
3 *costs in proportion to the actual time that the employee spends on*
4 *activities authorized under subdivision (e) of Section 33334.2.*

5 *(C) Employee compensation costs, including salaries, wages,*
6 *and benefits, paid to or on behalf of any agency, city, or county*
7 *employee who supervises or manages the work of an employee or*
8 *employees specified in subparagraph (A) or (B) or who provides*
9 *general administrative services, including, but not limited to,*
10 *finance, legal, human resources, information technology, and other*
11 *administrative services, that indirectly support activities authorized*
12 *under subdivision (e) of Section 33334.2 and nonpersonnel costs,*
13 *including, but not limited to, travel, training, publications, and*
14 *conferences, for those employees that are directly related to those*
15 *activities. Employee compensation costs shall (i) be justified by*
16 *an independent cost allocation study no more than six years old,*
17 *and (ii) not represent a greater proportion of the employee's total*
18 *compensation than the proportion of employees working directly*
19 *and exclusively on activities authorized under subdivision (e) of*
20 *Section 33334.2 in comparison to the total number of employees*
21 *supervised, managed, or indirectly supported by that employee.*

22 *(D) Overhead costs, including, but not limited to, rent or*
23 *mortgage payments, equipment, and office supplies. If the overhead*
24 *costs are shared with departments or employees whose duties*
25 *include activities other than those authorized under subdivision*
26 *(e) of Section 33334.2, the proportion of the overhead costs paid*
27 *from the Low and Moderate Income Housing Fund shall not exceed*
28 *the proportion of employees working directly and exclusively on*
29 *activities authorized under subdivision (e) of Section 33334.2*
30 *represented in comparison to the total number of employees*
31 *sharing the space, equipment, or office supplies.*

32 *(E) The total value of any contracts for agency planning or*
33 *administrative services that are related to activities authorized*
34 *under subdivision (e) of Section 33334.2.*

35 *(F) Any other costs for planning and general administrative*
36 *activities that are related to activities authorized under subdivision*
37 *(e) of Section 33334.2.*

38 *(2) (A) Except as provided in subparagraph (C), an agency in*
39 *any fiscal year shall not expend more than 10 percent of the money*
40 *deposited into the Low and Moderate Income Housing Fund,*

1 *exclusive of debt proceeds, for planning and general administrative*
2 *costs described in subparagraphs (A), (C), (D), (E), and (F) of*
3 *paragraph (1).*

4 *(B) Except as provided in subparagraph (C), an agency in any*
5 *fiscal year shall not expend more than 10 percent of the money*
6 *deposited into the Low and Moderate Income Housing Fund,*
7 *exclusive of debt proceeds, for planning and general administrative*
8 *costs described in subparagraph (B) of paragraph (1), except that*
9 *an agency may additionally expend for these purposes any*
10 *difference between the cap described in subparagraph (A) and*
11 *actual expenditures for those planning and general administrative*
12 *costs.*

13 *(C) Subparagraphs (A) and (B) shall not apply to a project*
14 *area-specific Low and Moderate Income Housing Fund during*
15 *the first five fiscal years after adoption of that specific project*
16 *area. Subparagraphs (A) and (B) shall apply to a new or amended*
17 *project area if tax increment for that new or amended project area*
18 *is deposited into an aggregate Low and Moderate Income Housing*
19 *Fund covering more than one project area.*

20 *(3) In a challenge related to the proportionality of costs, as*
21 *required by subparagraphs (A), (B), (C), and (D) of paragraph*
22 *(1), the agency shall bear the burden of proof to demonstrate that*
23 *the costs are proportionate. In a challenge related to compliance*
24 *with the requirements of paragraph (2), the agency shall bear the*
25 *burden of proof to demonstrate that costs are appropriately*
26 *allocated to subparagraph (B) of paragraph (1).*

27 ~~(e) (1) Planning and general administrative costs which may~~
28 ~~be paid with Notwithstanding paragraph (1) of subdivision (d),~~
29 ~~the agency shall not expend moneys from the Low and Moderate~~
30 ~~Income Housing Fund are those expenses incurred by the agency~~
31 ~~which are directly related to the programs and activities authorized~~
32 ~~under subdivision (e) of Section 33334.2 and are limited to for any~~
33 ~~of the following purposes:~~

34 ~~(A) Costs incurred for salaries, wages, and related costs of the~~
35 ~~agency's staff or for services provided through interagency~~
36 ~~agreements, and agreements with contractors, including usual~~
37 ~~indirect costs related thereto.~~

38 ~~(B) Costs incurred by a nonprofit corporation which are not~~
39 ~~directly attributable to a specific project.~~

~~(2) Legal, architectural, and engineering costs and other salaries, wages, and costs directly related to the planning and execution of a specific project that are authorized under subdivision (c) of Section 33334.2 and that are incurred by a nonprofit housing sponsor are not planning and administrative costs for the purposes of this section, but are instead project costs.~~

(A) Land use planning or related activities of a planning department, including development or revision of the general plan housing element, except for the payment of normal project-related planning fees applicable to all similar development projects. This limitation shall not preclude an agency from expending moneys from the Low and Moderate Income Housing Fund toward the cost of agency staff participation in the development of the general plan housing element provided that those costs are counted towards the cap described in subparagraph (A) of paragraph (2) of subdivision (d).

(B) Lobbying. The Legislature finds and declares that this subparagraph is declaratory of existing law.

(C) Administration of nonredevelopment activities unrelated to activities allowed pursuant to this section, and Sections 33334.2, 33334.6, and 33487.

(2) An agency may expend up to 2 percent of the moneys deposited into the Low and Moderate Income Housing Fund, exclusive of debt proceeds, for code enforcement activities within a project area that improve the housing opportunities of low- or moderate-income households. However, if code enforcement activities result, directly or indirectly, in the displacement of tenants or the removal from the market of units affordable to or occupied by low- or moderate-income households, the agency shall be subject to the relocation and replacement obligations imposed by this part and the requirements of Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code, except that Section 7265.3 of the Government Code shall not apply.

(f) (1) The requirements of this subdivision apply to all new or substantially rehabilitated housing units developed or otherwise assisted with moneys from the Low and Moderate Income Housing Fund, pursuant to an agreement approved by an agency on or after January 1, 1988. Except to the extent that a longer period of time may be required by other provisions of law, the agency shall require that housing units subject to this subdivision shall remain available

1 at affordable housing cost to, and occupied by, persons and families
2 of low or moderate income and very low income and extremely
3 low income households for the longest feasible time, but for not
4 less than the following periods of time:

5 (A) Fifty-five years for rental units. However, the agency may
6 replace rental units with equally affordable and comparable rental
7 units in another location within the community if (i) the
8 replacement units are available for occupancy prior to the
9 displacement of any persons and families of low or moderate
10 income residing in the units to be replaced and (ii) the comparable
11 replacement units are not developed with moneys from the Low
12 and Moderate Income Housing Fund.

13 (B) Forty-five years for owner-occupied units. However, the
14 agency may permit sales of owner-occupied units prior to the
15 expiration of the 45-year period for a price in excess of that
16 otherwise permitted under this subdivision pursuant to an adopted
17 program which protects the agency's investment of moneys from
18 the Low and Moderate Income Housing Fund, including, but not
19 limited to, an equity sharing program which establishes a schedule
20 of equity sharing that permits retention by the seller of a portion
21 of those excess proceeds based on the length of occupancy. The
22 remainder of the excess proceeds of the sale shall be allocated to
23 the agency and deposited in the Low and Moderate Income
24 Housing Fund. Only the units originally assisted by the agency
25 shall be counted towards the agency's obligations under Section
26 33413.

27 (C) Fifteen years for mutual self-help housing units that are
28 occupied by and affordable to very low and low-income
29 households. However, the agency may permit sales of mutual
30 self-help housing units prior to expiration of the 15-year period
31 for a price in excess of that otherwise permitted under this
32 subdivision pursuant to an adopted program that (i) protects the
33 agency's investment of moneys from the Low and Moderate
34 Income Housing Fund, including, but not limited to, an equity
35 sharing program that establishes a schedule of equity sharing that
36 permits retention by the seller of a portion of those excess proceeds
37 based on the length of occupancy; and (ii) ensures through a
38 recorded regulatory agreement, deed of trust, or similar recorded
39 instrument that if a mutual self-help housing unit is sold at any
40 time after expiration of the 15-year period and prior to 45 years

1 after the date of recording of the covenants or restrictions required
2 pursuant to paragraph (2), the agency recovers, at a minimum, its
3 original principal from the Low and Moderate Income Housing
4 Fund from the proceeds of the sale and deposits those funds into
5 the Low and Moderate Income Housing Fund. The remainder of
6 the excess proceeds of the sale not retained by the seller shall be
7 allocated to the agency and deposited in the Low and Moderate
8 Income Housing Fund. For the purposes of this subparagraph,
9 “mutual self-help housing unit” means an owner-occupied housing
10 unit for which persons and families of very low and low income
11 contribute no fewer than 500 hours of their own labor in individual
12 or group efforts to provide a decent, safe, and sanitary ownership
13 housing unit for themselves, their families, and others authorized
14 to occupy that unit. Nothing in this subparagraph precludes the
15 agency and the developer of the mutual self-help housing units
16 from agreeing to 45-year deed restrictions.

17 (2) If land on which those dwelling units are located is deleted
18 from the project area, the agency shall continue to require that
19 those units remain affordable as specified in this subdivision.

20 (3) The agency shall require the recording in the office of the
21 county recorder of the following documents:

22 (A) The covenants or restrictions implementing this subdivision
23 for each parcel or unit of real property subject to this subdivision.
24 The agency shall obtain and maintain a copy of the recorded
25 covenants or restrictions for not less than the life of the covenant
26 or restriction.

27 (B) For all new or substantially rehabilitated units developed
28 or otherwise assisted with moneys from the Low and Moderate
29 Income Housing Fund on or after January 1, 2008, a separate
30 document called “Notice of Affordability Restrictions on Transfer
31 of Property,” set forth in 14-point type or larger. This document
32 shall contain all of the following information:

33 (i) A recitation of the affordability covenants or restrictions. If
34 the document recorded under this subparagraph is recorded
35 concurrently with the covenants or restrictions recorded under
36 subparagraph (A), the recitation of the affordability covenants or
37 restrictions shall also reference the concurrently recorded
38 document. If the document recorded under this subparagraph is
39 not recorded concurrently with the covenants or restrictions
40 recorded under subparagraph (A), the recitation of the affordability

1 covenants or restrictions shall also reference the recorder's
2 identification number of the document recorded under subparagraph
3 (A).

4 (ii) The date the covenants or restrictions expire.

5 (iii) The street address of the property, including, if applicable,
6 the unit number, unless the property is used to confidentially house
7 victims of domestic violence.

8 (iv) The assessor's parcel number for the property.

9 (v) The legal description of the property.

10 (4) The agency shall require the recording of the document
11 required under subparagraph (B) of paragraph (3) not more than
12 30 days after the date of recordation of the covenants or restrictions
13 required under subparagraph (A) of paragraph (3).

14 (5) The county recorder shall index the documents required to
15 be recorded under paragraph (3) by the agency and current owner.

16 (6) Notwithstanding Section 27383 of the Government Code,
17 a county recorder may charge all authorized recording fees to any
18 party, including a public agency, for recording the document
19 specified in subparagraph (B) of paragraph (3).

20 (7) Notwithstanding any other provision of law, the covenants
21 or restrictions implementing this subdivision shall run with the
22 land and shall be enforceable against any owner who violates a
23 covenant or restriction and each successor in interest who continues
24 the violation, by any of the following:

25 (A) The agency.

26 (B) The community, as defined in Section 33002.

27 (C) A resident of a unit subject to this subdivision.

28 (D) A residents' association with members who reside in units
29 subject to this subdivision.

30 (E) A former resident of a unit subject to this subdivision who
31 last resided in that unit.

32 (F) An applicant seeking to enforce the covenants or restrictions
33 for a particular unit that is subject to this subdivision, if the
34 applicant conforms to all of the following:

35 (i) Is of low or moderate income, as defined in Section 50093.

36 (ii) Is able and willing to occupy that particular unit.

37 (iii) Was denied occupancy of that particular unit due to an
38 alleged breach of a covenant or restriction implementing this
39 subdivision.

1 (G) A person on an affordable housing waiting list who is of
2 low or moderate income, as defined in Section 50093, and who is
3 able and willing to occupy a unit subject to this subdivision.

4 (8) A dwelling unit shall not be counted as satisfying the
5 affordable housing requirements of this part, unless covenants for
6 that dwelling unit are recorded in compliance with subparagraph
7 (A) of paragraph (3).

8 (9) Failure to comply with the requirements of subparagraph
9 (B) of paragraph (3) shall not invalidate any covenants or
10 restrictions recorded pursuant to subparagraph (A) of paragraph
11 (3).

12 (g) “Housing,” as used in this section, includes residential hotels,
13 as defined in subdivision (k) of Section 37912. The definitions of
14 “lower income households,” “very low income households,” and
15 “extremely low income households” in Sections 50079.5, 50105,
16 and 50106 shall apply to this section. “Longest feasible time,” as
17 used in this section, includes, but is not limited to, unlimited
18 duration.

19 (h) “Increasing, improving, and preserving the community’s
20 supply of low- and moderate-income housing,” as used in this
21 section and in Section 33334.2, includes the preservation of rental
22 housing units assisted by federal, state, or local government on the
23 condition that units remain affordable to, and occupied by, low-
24 and moderate-income households, including extremely low and
25 very low income households, for the longest feasible time, but not
26 less than 55 years, beyond the date the subsidies and use restrictions
27 could be terminated and the assisted housing units converted to
28 market rate rentals. In preserving these units the agency shall
29 require that the units remain affordable to, and occupied by, persons
30 and families of low- and moderate-income and extremely low and
31 very low income households for the longest feasible time but not
32 less than 55 years. However, the agency may replace rental units
33 with equally affordable and comparable rental units in another
34 location within the community if (1) the replacement units in
35 another location are available for occupancy prior to the
36 displacement of any persons and families of low or moderate
37 income residing in the units to be replaced and (2) the comparable
38 replacement units are not developed with moneys from the Low
39 and Moderate Income Housing Fund.

(i) Agencies that have more than one project area may satisfy the requirements of Sections 33334.2 and 33334.6 and of this section by allocating, in any fiscal year, less than 20 percent in one project area, if the difference between the amount allocated and the 20 percent required is instead allocated, in that same fiscal year, to the Low and Moderate Income Housing Fund from tax increment revenues from other project areas. Prior to allocating funds pursuant to this subdivision, the agency shall make the finding required by subdivision (g) of Section 33334.2.

(j) Funds from the Low and Moderate Income Housing Fund shall not be used to the extent that other reasonable means of ~~private~~ *public, private, or commercial* financing ~~of for the new or substantially rehabilitated construction, acquisition, or substantial rehabilitation of~~ units at the same level of affordability and quantity are reasonably available to the agency or to the owner of the units. Prior to the expenditure of funds from the Low and Moderate Income Housing Fund for ~~the new or substantially rehabilitated construction, acquisition, or substantial rehabilitation of~~ housing units, where those funds will exceed 50 percent of the cost of producing the units, the agency shall find, based on substantial evidence, that the use of the funds is necessary because the agency or owner of the units has made a good faith attempt but been unable to obtain ~~commercial or private means of~~ *other public, private, or commercial* financing of the units at the same level of affordability and quantity.

SEC. 10. Section 33334.4 of the Health and Safety Code is amended to read:

33334.4. (a) ~~(1) Except as specified in subdivision (d), each agency shall expend over each 10-year period of the implementation plan,~~ *Over each 10-year implementation planning period,* as specified in clause (iii) of subparagraph (A) of paragraph (2) of subdivision (a) of Section 33490, the moneys in the Low and Moderate Income Housing Fund to assist housing for persons of low income and housing for persons of very low income in at least the same proportion as the total number of housing units needed for each of those income groups bears to the total number of units needed for persons of moderate, low, and very low income within the community, as those needs have been determined for the community pursuant to Section 65584 of the Government Code. ~~In determining compliance with this obligation, the agency may~~

1 ~~adjust the proportion by subtracting from the need identified for~~
2 ~~each income category, the number of units for persons of that~~
3 ~~income category that are newly constructed over the duration of~~
4 ~~the implementation plan with other locally controlled government~~
5 ~~assistance and without agency assistance and that are required to~~
6 ~~be affordable to, and occupied by, persons of the income category~~
7 ~~for at least 55 years for rental housing and 45 years for ownership~~
8 ~~housing, except that in making an adjustment the agency may not~~
9 ~~subtract units developed pursuant to a replacement housing~~
10 ~~obligation under state or federal law.~~

11 *(2) Following the last 10-year implementation planning period*
12 *referenced in paragraph (1), all of the following shall apply:*

13 *(A) At least 75 percent of each agency's expenditures from the*
14 *Low and Moderate Income Housing Fund exclusive of debt service*
15 *payments shall directly assist the new construction, acquisition*
16 *and substantial rehabilitation, or preservation of housing for*
17 *persons of extremely low, very low, or low income.*

18 *(B) At least 50 percent of each agency's expenditures from the*
19 *Low and Moderate Income Housing Fund exclusive of debt service*
20 *payments shall directly assist the new construction, acquisition*
21 *and substantial rehabilitation, or preservation of housing for*
22 *persons of extremely low or very low income.*

23 *(C) At least 25 percent of each agency's expenditures from the*
24 *Low and Moderate Income Housing Fund exclusive of debt service*
25 *payments shall directly assist the new construction, acquisition*
26 *and substantial rehabilitation, or preservation of housing for*
27 *persons of extremely low income.*

28 *(3) The expenditures for extremely low income housing, pursuant*
29 *to subparagraph (C) of paragraph (2), shall count towards the*
30 *requirements of subparagraphs (A) and (B) of paragraph (2), and*
31 *the expenditures for very low and extremely low-income housing*
32 *pursuant to subparagraphs (B) and (C) of paragraph (2) shall*
33 *count towards the requirements of subparagraph (A) of paragraph*
34 *(2).*

35 *(4) An agency shall satisfy the requirements of paragraph (2)*
36 *by demonstrating in each implementation plan that as of the end*
37 *of the immediately preceding 5-year implementation planning*
38 *period, the agency's aggregate expenditures from the Low and*
39 *Moderate Income Housing Fund, exclusive of debt service*
40 *payments, between the end of the last 10-year implementation*

1 *period referenced in paragraph (1) and the end of the immediately*
2 *preceding 5-year implementation planning period satisfy the*
3 *proportionality requirements set forth in paragraph (2).*

4 (5) (A) *For purposes of this subdivision, “preservation” means*
5 *preserving the affordability of an assisted housing development*
6 *that is eligible for prepayment or termination or for which within*
7 *the expiration of rental restrictions is scheduled to occur within*
8 *five years, as those terms are defined in Section 65863.10 of the*
9 *Government Code.*

10 (B) *For purposes of this section, “housing for persons of*
11 *extremely low income” shall mean housing that is available at an*
12 *affordable rent or affordable housing cost to, and occupied by,*
13 *households earning 30 percent of the area median income or 30*
14 *percent of the statewide median income, whichever is greater.*

15 (b) Each agency shall expend over the duration of each
16 redevelopment implementation plan, the moneys in the Low and
17 Moderate Income Housing Fund to assist housing that is available
18 to all persons regardless of age in at least the same proportion as
19 the number of low-income households with a member under age
20 65 years bears to the total number of low-income households of
21 the community as reported in the most recent census of the United
22 States Census Bureau.

23 (c) (1) *An agency that has deposited an aggregate amount that*
24 *is less than two million dollars (\$2,000,000) in the Low and*
25 *Moderate Income Housing Fund over the first five-year*
26 *implementation planning period following the last 10-year*
27 *implementation planning period referenced in paragraph (1) of*
28 *subdivision (a) shall have 10 years following the last 10-year*
29 *implementation planning period referenced in paragraph (1) of*
30 *subdivision (a) to meet the requirements of paragraph (2) of*
31 *subdivision (a).*

32 (e)

33 (2) An agency that has deposited in the Low and Moderate
34 Income Housing Fund over the first five years of the period of an
35 implementation plan an aggregate that is less than two million
36 dollars (\$2,000,000) shall have an extra five years to meet the
37 requirements of this section.

38 (d) For the purposes of this section, ~~“locally controlled” means~~
39 ~~government assistance where the community or other local~~
40 ~~government entity has the discretion and the authority to determine~~

1 the recipient and the amount of the assistance, whether or not the
2 source of the funds or other assistance is from the state or federal
3 government. Examples of locally controlled government assistance
4 include, but are not limited to, Community Development Block
5 Grant Program (42 U.S.C. Sec. 5301 and following) funds allocated
6 to a city or county, Home Investment Partnership Program (42
7 U.S.C. Sec. 12721 and following) funds allocated to a city or
8 county, fees or funds received by a city or county pursuant to a
9 city or county authorized program, and the waiver or deferral of
10 city or other charges only, funds may be deemed expended if the
11 agency has contractually obligated the funds to an entity that is
12 independent of the agency or its community for the development
13 of a specific eligible housing development, provided that if the
14 contract is terminated prior to expenditure of the funds, the funds
15 shall be discounted from the calculations required in subdivisions
16 (a) and (b) and the provisions of subdivision (e) shall apply.

17 (e) (1) If an agency fails to comply with subdivision (a) within
18 the required time period, it shall not expend any moneys from the
19 Low and Moderate Income Housing Fund to assist households
20 whose incomes exceed 50 percent of the area median income until
21 the agency has expended the funds that it should have expended
22 for extremely low, very low, and low-income housing, respectively,
23 in previous implementation plan periods.

24 (2) If an agency fails to comply with subdivision (b) within the
25 required time period, it shall not expend any moneys from the Low
26 and Moderate Income Housing Fund to assist senior households
27 until the agency has expended the funds that it should have
28 expended for housing available to all persons regardless of age
29 in previous implementation plan periods.

30 (f) Agencies are encouraged to expend moneys in the Low and
31 Moderate Income Housing Fund to assist special housing needs
32 identified in the community's housing element pursuant to
33 paragraph (7) of subdivision (a) of Section 65583 of the
34 Government Code.

35 SEC. 11. Section 33334.12 of the Health and Safety Code is
36 amended to read:

37 33334.12. (a) (1) Upon failure of the agency to expend or
38 encumber excess surplus in the Low and Moderate Income Housing
39 Fund within one year from the date the moneys become excess

1 surplus, as defined in paragraph (1) of subdivision (g), the agency
2 shall do either of the following:

3 (A) ~~Disburse voluntarily its excess surplus to the county housing~~
4 ~~authority or to another public agency exercising housing~~
5 ~~development powers within the territorial jurisdiction of the agency~~
6 ~~in accordance with subdivision (b).~~

7 (B) ~~Expend or encumber its excess surplus within two additional~~
8 ~~years.~~

9 (2)

10 33334.12. (a) *Agencies shall expend moneys from the Low*
11 *and Moderate Income Housing Fund in a manner that does not*
12 *accrue an excess surplus, as defined in paragraph (1) of*
13 *subdivision (c). If an agency, after three years has elapsed from*
14 *the date that the moneys become excess surplus, has not expended*
15 *or encumbered its excess surplus, the agency shall be subject to*
16 *sanctions pursuant to subdivision (e), until the agency has expended*
17 *or encumbered its excess surplus plus an additional amount, equal*
18 *to 50 percent of the amount of the excess surplus that remains at*
19 *the end of the three-year period. The additional expenditure shall*
20 *not be from the agency's Low and Moderate Income Housing*
21 *Fund, or any other city, county, or agency special fund related to*
22 *housing, but shall be used in a manner that meets all requirements*
23 *for expenditures from that fund.*

24 (b) ~~The~~ *For disbursements or expenditures of excess surplus*
25 *made prior to January 1, 2012, the housing authority or other*
26 *public agency to which the money is transferred shall utilize the*
27 *moneys for the purposes of, and subject to the same restrictions*
28 *that are applicable to, the redevelopment agency under this part,*
29 *and for that purpose may exercise all of the powers of a housing*
30 *authority under Part 2 (commencing with Section 34200) to an*
31 *extent not inconsistent with these limitations.*

32 (c) ~~Notwithstanding~~ *For disbursements or expenditures of*
33 *excess surplus made prior to January 1, 2012, notwithstanding*
34 *Section 34209 or any other provision of law, for the purpose of*
35 *accepting a transfer of, and using, moneys pursuant to this section,*
36 *the housing authority of a county or other public agency may*
37 *exercise its powers within the territorial jurisdiction of a city*
38 *redevelopment agency located in that county.*

39 (d) ~~The~~ *For disbursements or expenditures of excess surplus*
40 *made prior to January 1, 2012, the amount of excess surplus that*

1 shall be transferred to the housing authority or other public agency
2 because of a failure of the redevelopment agency to expend or
3 encumber excess surplus within one year shall be the amount of
4 the excess surplus that is not so expended or encumbered. The
5 housing authority or other public agency to which the moneys are
6 transferred shall expend or encumber these moneys for authorized
7 purposes not later than three years after the date these moneys
8 were transferred from the Low and Moderate Income Housing
9 Fund.

10 (e) (1) Until a time when the agency has expended or
11 encumbered excess surplus moneys pursuant to subdivision (a),
12 the agency shall be prohibited from encumbering any funds or
13 expending any moneys derived from any source, except that the
14 agency may encumber funds and expend moneys to pay the
15 following obligations, if any, that were incurred by the agency
16 prior to three years from the date the moneys became excess
17 surplus:

18 (A) Bonds, notes, interim certificates, debentures, or other
19 obligations issued by an agency, whether funded, refunded,
20 assumed, or otherwise, pursuant to Article 5 (commencing with
21 Section 33640).

22 (B) Loans or moneys advanced to the agency, including, but
23 not limited to, loans from federal, state, or local agencies, or a
24 private entity.

25 (C) Contractual obligations which, if breached, could subject
26 the agency to damages or other liabilities or remedies.

27 (D) Obligations incurred pursuant to Section 33445.

28 (E) Indebtedness incurred pursuant to Section 33334.2 or
29 33334.6.

30 (F) Obligations incurred pursuant to Section 33401.

31 (G) An amount, to be expended for the operation and
32 administration of the agency, that may not exceed 75 percent of
33 the amount spent for those purposes in the preceding fiscal year.

34 (2) This subdivision shall not be construed to prohibit the
35 expenditure of excess surplus funds or other funds to meet the
36 requirement in paragraph (2) of subdivision (a) that the agency
37 spend or encumber excess surplus funds, plus an amount equal to
38 50 percent of excess surplus, prior to spending or encumbering
39 funds for any other purpose.

1 ~~(f) Nothing in this section shall be construed to limit any~~
2 ~~authority a redevelopment agency may have under other provisions~~
3 ~~of this part to contract with a housing authority for increasing or~~
4 ~~improving the community's supply of low- and moderate-income~~
5 ~~housing.~~

6 ~~(g)~~

7 (f) For purposes of this section:

8 (1) "Excess surplus" means any unexpended and unencumbered
9 amount in an agency's Low and Moderate Income Housing Fund
10 that exceeds the greater of one million dollars (\$1,000,000) or the
11 aggregate amount deposited into the Low and Moderate Income
12 Housing Fund pursuant to Sections 33334.2 and 33334.6 during
13 the agency's preceding four fiscal years. The first fiscal year to be
14 included in this computation is the 1989-90 fiscal year, and the
15 first date on which an excess surplus may exist is July 1, 1994.

16 (2) Moneys shall be deemed encumbered if committed pursuant
17 to a legally enforceable contract or agreement for expenditure for
18 purposes specified in Section 33334.2 or 33334.3.

19 (3) (A) For purposes of determining whether an excess surplus
20 exists, it is the intent of the Legislature to give credit to agencies
21 which convey land for less than fair market value, on which low-
22 and moderate-income housing is built or is to be built if at least
23 49 percent of the units developed on the land are available at
24 affordable housing cost to lower income households for at least
25 the time specified in subdivision (e) of Section 33334.3, and
26 otherwise comply with all of the provisions of this division
27 applicable to expenditures of moneys from a low- and
28 moderate-income housing fund established pursuant to Section
29 33334.3. Therefore, for the sole purpose of determining the amount,
30 if any, of an excess surplus, an agency may make the following
31 calculation: if an agency sells, leases, or grants land acquired with
32 moneys from the Low and Moderate Income Housing Fund,
33 established pursuant to Section 33334.3, for an amount which is
34 below fair market value, and if at least 49 percent of the units
35 constructed or rehabilitated on the land are affordable to lower
36 income households, as defined in Section 50079.5, the difference
37 between the fair market value of the land and the amount the
38 agency receives may be subtracted from the amount of moneys in
39 an agency's Low and Moderate Income Housing Fund.

(B) If taxes that are deposited in the Low and Moderate Income Housing Fund are used as security for bonds or other indebtedness, the proceeds of the bonds or other indebtedness, and income and expenditures related to those proceeds, shall not be counted in determining whether an excess surplus exists. The unspent portion of the proceeds of bonds or other indebtedness, and income related thereto, shall be excluded from the calculation of the unexpended and unencumbered amount in the Low and Moderate Income Housing Fund when determining whether an excess surplus exists.

(C) Nothing in this subdivision shall be construed to restrict the authority of an agency provided in any other provision of this part to expend funds from the Low and Moderate Income Housing Fund.

(D) The department shall develop and periodically revise the methodology to be used in the calculation of excess surplus as required by this section. The director shall appoint an advisory committee to advise in the development of this methodology. The advisory committee shall include department staff, affordable housing advocates, and representatives of the California Redevelopment Association, the California Society of Certified Public Accountants, the Controller, and any other authorities or persons interested in the field that the director deems necessary and appropriate.

~~(h)~~

(g) Communities in which an agency has disbursed excess surplus funds pursuant to this section shall not disapprove a low- or moderate-income housing project funded in whole or in part by the excess surplus funds if the project is consistent with applicable building codes and the land use designation specified in any element of the general plan as it existed on the date the application was deemed complete. A local agency may require compliance with local development standards and policies appropriate to and consistent with meeting the quantified objectives relative to the development of housing, as required in housing elements of the community pursuant to subdivision (b) of Section 65583 of the Government Code.

~~(i)~~

(h) Notwithstanding subdivision (a), any agency that has funds that become excess surplus on July 1, 1994, shall have, pursuant to subdivision (a), until January 1, 1995, to decide to transfer the

1 funds to a housing authority or other public agency, or until January
2 1, 1997, to expend or encumber those funds, or face sanctions
3 pursuant to subdivision (e).

4 *SEC. 12. Section 33334.16 of the Health and Safety Code is*
5 *repealed.*

6 ~~33334.16. For each interest in real property acquired using~~
7 ~~moneys from the Low and Moderate Income Housing Fund, the~~
8 ~~agency shall, within five years from the date it first acquires the~~
9 ~~property interest for the development of housing affordable to~~
10 ~~persons and families of low and moderate income, initiate activities~~
11 ~~consistent with the development of the property for that purpose.~~
12 ~~These activities may include, but are not limited to, zoning changes~~
13 ~~or agreements entered into for the development and disposition of~~
14 ~~the property. If these activities have not been initiated within this~~
15 ~~period, the legislative body may, by resolution, extend the period~~
16 ~~during which the agency may retain the property for one additional~~
17 ~~period not to exceed five years. The resolution of extension shall~~
18 ~~affirm the intention of the legislative body that the property be~~
19 ~~used for the development of housing affordable to persons and~~
20 ~~families of low and moderate income. In the event that physical~~
21 ~~development of the property for this purpose has not begun by the~~
22 ~~end of the extended period, or if the agency does not comply with~~
23 ~~this requirement, the property shall be sold and the moneys from~~
24 ~~the sale, less reimbursement to the agency for the cost of the sale,~~
25 ~~shall be deposited in the agency's Low and Moderate Income~~
26 ~~Housing Fund.~~

27 *SEC. 13. Section 33334.16 is added to the Health and Safety*
28 *Code, to read:*

29 *33334.16. (a) (1) For each interest in real property acquired*
30 *using moneys from the Low and Moderate Income Housing Fund,*
31 *the agency shall, within five years from the date of acquisition,*
32 *complete at least one of the following activities:*

33 *(A) Enter into a disposition and development agreement or a*
34 *land lease with a third party for the development of housing*
35 *affordable to persons and families of low and moderate income.*

36 *(B) Obtain final land use entitlements and secure full financing*
37 *for agency development of housing affordable to persons and*
38 *families of low and moderate income.*

39 *(C) Submit a remedial action plan for the real property to the*
40 *appropriate oversight agency, including, but not limited to, the*

1 *Department of Toxic Substances Control, a California regional*
2 *water quality control board, or the Office of Human Health Risk*
3 *Assessment, for the cleanup of contamination.*

4 *(2) On or after January 1, 2013, if none of the activities*
5 *described in paragraph (1) has been completed within five years,*
6 *or if less than 10 percent of the dwelling units or floor area of a*
7 *project is developed within 10 years from the date the agency*
8 *originally acquired the property, the agency shall reimburse the*
9 *Low and Moderate Income Housing Fund 150 percent of the*
10 *amount expended to acquire and maintain the property or of the*
11 *current fair market value of the property, whichever amount is*
12 *greater.*

13 *(3) If the agency owns two or more adjacent parcels of real*
14 *property that comprise a single redevelopment project for which*
15 *the parcels are described in the implementation plan, the date of*
16 *acquisition for all such parcels shall be the date of acquisition of*
17 *the last acquired parcel, provided that this date shall not be later*
18 *than 5 years after the acquisition of the first parcel.*

19 *(4) An agency may adopt a resolution to petition the department*
20 *for, and the department may grant, a single extension for up to*
21 *five years of the deadlines established in paragraphs (1) and (2)*
22 *if the department makes a finding that the failure to complete the*
23 *required activities is due to circumstances beyond the agency's*
24 *or community's control and that the agency has a feasible plan*
25 *for the development of housing affordable to persons and families*
26 *of low and moderate income on the real property within the period*
27 *of the extension. The agency shall provide information supporting*
28 *the need for the extension and a plan for development of the*
29 *property. The department shall solicit comments from known or*
30 *expected parties interested in the petition and consider comments*
31 *from these and any other parties. The department shall establish*
32 *a schedule of fees to cover but not exceed its costs under this*
33 *subparagraph, and at the time the petition is submitted the agency*
34 *shall pay the fees with funds other than those required to be set*
35 *aside or used for low- and moderate-income housing pursuant to*
36 *this part or otherwise designated for affordable housing.*

37 *(b) At any time, in addition to proceeds from the sale or transfer,*
38 *the agency shall deposit into the Low and Moderate Income*
39 *Housing Fund from agency revenues other than those required to*
40 *be deposited in the Low and Moderate Income Housing Fund an*

1 amount equal to 50 percent of the fair market value of the property
2 at the time it is sold or transferred or, if the property is not sold
3 or transferred, of the fair market value of the land at the time a
4 building permit is issued for the property. This subdivision shall
5 apply only under either of the following conditions:

6 (1) A real property acquired using moneys from the Low and
7 Moderate Income Housing Fund is sold or transferred for a
8 purpose other than housing affordable to persons and families of
9 low and moderate income.

10 (2) A real property acquired using moneys from the Low and
11 Moderate Income Housing Fund is developed such that less than
12 50 percent of the floor area, or a percentage of the floor area equal
13 to the proportion that moneys from the Low and Moderate Income
14 Housing Fund represent to the total acquisition cost, whichever
15 is less, is housing affordable to persons and families of low and
16 moderate income.

17 SEC. 14. Section 33413 of the Health and Safety Code is
18 amended to read:

19 33413. (a) Whenever dwelling units ~~housing affordable to or~~
20 ~~occupied by~~ persons and families of low or moderate income are
21 destroyed or removed from the low- and moderate-income housing
22 market as part of a redevelopment project that is subject to a written
23 agreement with the agency or where financial assistance has been
24 provided by the agency, the agency shall, within four years of the
25 destruction or removal, ~~rehabilitate, develop, or construct, or cause~~
26 ~~to be rehabilitated, developed, or constructed, for rental or sale to~~
27 persons and families of low or moderate income, an equal number
28 of replacement dwelling units that have an equal or greater number
29 of bedrooms as those destroyed or removed units at affordable
30 housing costs within the territorial jurisdiction of the agency. ~~When~~
31 ~~dwelling units are destroyed or removed after September 1, 1989,~~
32 ~~75 percent of the replacement dwelling units shall replace dwelling~~
33 ~~units available at affordable housing cost in the same or a lower~~
34 ~~income level of very low income households, lower income~~
35 ~~households, and persons and families of low and moderate income,~~
36 ~~as the persons displaced from those destroyed or removed units.~~
37 ~~When dwelling units are destroyed or removed on or after January~~
38 ~~1, 2002, 100 percent of the replacement dwelling units shall be~~
39 ~~available at affordable housing cost to persons in the same or a~~
40 ~~lower income category (low, very low, or moderate), as the persons~~

1 ~~displaced from those destroyed or removed units~~ agency, provided
2 *that if the units are provided outside the project area the agency*
3 *shall provide two units for each unit the agency is obligated to*
4 *replace. The replacement obligation shall apply to all units*
5 *affordable to low- or moderate-income persons or families at the*
6 *time of initiation of negotiations of a written agreement with or*
7 *financial assistance from the agency. For purposes of this section,*
8 *the inclusion of residential units in the rehabilitation of an existing*
9 *nonresidential structure shall constitute construction.*

10 (1) *When dwelling units are destroyed or removed after*
11 *September 1, 1989, 75 percent of the replacement dwelling units*
12 *shall be available at affordable housing cost to, and occupied by,*
13 *persons and families in the same or a lower income level of very*
14 *low income households, lower income households, and persons*
15 *and families of low and moderate income, as the persons and*
16 *families displaced from those destroyed or removed units.*

17 (2) *When dwelling units are destroyed or removed on or after*
18 *January 1, 2002, 100 percent of the replacement dwelling units*
19 *shall be available at affordable housing cost to, and occupied by,*
20 *persons and families in the same or a lower income category*
21 *(extremely low, very low, low, or moderate), as the persons and*
22 *families displaced from those destroyed or removed units. This*
23 *paragraph is declaratory of existing law.*

24 (3) *On or after January 1, 2012, in the case where the agency*
25 *is obligated to replace vacant units, those replacement units shall*
26 *be available at affordable housing costs to, and occupied by,*
27 *persons and families in the same or lower income category*
28 *(extremely low, very low, low, or moderate) in the same proportion*
29 *as the units occupied or last occupied by low- and*
30 *moderate-income households in the property.*

31 (4) *Up to 25 percent of the replacement obligation incurred*
32 *during a five-year implementation plan may be satisfied in either*
33 *of the following ways:*

34 (A) *With units that have been rehabilitated such that*
35 *after-rehabilitation value is increased by 50 percent or more of*
36 *the pre-rehabilitation value, as evidenced by pre and post*
37 *rehabilitation appraisals and, the rehabilitated units were, at the*
38 *time the dwelling units to be replaced were destroyed or removed*
39 *were either of the following:*

1 (i) *At risk of demolition or closure due to substandard conditions*
2 *and occupied by extremely low or very low income households.*

3 (ii) *Vacant due to substandard conditions as defined in Section*
4 *1941.1 of the Civil Code.*

5 (B) *With substantially rehabilitated multifamily rental dwelling*
6 *units, as defined in paragraph (2) of subdivision (b) and evidenced*
7 *by pre and post rehabilitation appraisals, provided that the agency*
8 *shall substantially rehabilitate within the project area, two units*
9 *for each unit the agency is obligated to replace, or outside of the*
10 *project area, three units for each unit the agency is obligated to*
11 *replace.*

12 (5) *For each project containing rehabilitated replacement units,*
13 *the agency shall adopt a separate written resolution, after public*
14 *hearing and based on substantial evidence, that the rehabilitation*
15 *of the replacement dwelling units complies with this subdivision.*

16 (b) (1) Prior to the time limit on the effectiveness of the
17 redevelopment plan established pursuant to Sections 33333.2,
18 33333.6, and 33333.10 at least 30 percent of all new and
19 substantially rehabilitated dwelling units developed by an agency
20 shall be available at affordable housing cost to, and occupied by,
21 persons and families of low or moderate income. Not less than 50
22 percent of the dwelling units required to be available at affordable
23 housing cost to, and occupied by, persons and families of low or
24 moderate income shall be available at affordable housing cost to,
25 and occupied by, very low income households.

26 (2) (A) (i) Prior to the time limit on the effectiveness of the
27 redevelopment plan established pursuant to Sections 33333.2,
28 33333.6, and 33333.10 at least 15 percent of all new and
29 substantially rehabilitated dwelling units developed within a project
30 area under the jurisdiction of an agency by public or private entities
31 or persons other than the agency shall be available at affordable
32 housing cost to, and occupied by, persons and families of low or
33 moderate income. Not less than 40 percent of the dwelling units
34 required to be available at affordable housing cost to, and occupied
35 by, persons and families of low or moderate income shall be
36 available at affordable housing cost to, and occupied by, very low
37 income households.

38 (ii) To satisfy this paragraph, in whole or in part, the agency
39 may cause, by regulation or agreement, to be available, at
40 affordable housing cost, to, and occupied by, persons and families

1 of low or moderate income or to very low income households, as
2 applicable, two units outside a project area for each unit that
3 otherwise would have been required to be available inside a project
4 area.

5 (iii) On or after January 1, 2002, as used in this paragraph and
6 in paragraph (1), “substantially rehabilitated dwelling units” means
7 all units substantially rehabilitated, with agency assistance. Prior
8 to January 1, 2002, “substantially rehabilitated dwelling units”
9 shall mean substantially rehabilitated multifamily rented dwelling
10 units with three or more units regardless of whether there is agency
11 assistance, or substantially rehabilitated, with agency assistance,
12 single-family dwelling units with one or two units.

13 (iv) As used in this paragraph and in paragraph (1), “substantial
14 rehabilitation” means rehabilitation, the value of which constitutes
15 25 percent of the ~~after-rehabilitation~~ *after-rehabilitation* value of
16 the dwelling, inclusive of the land value.

17 (v) To satisfy this paragraph, the agency may aggregate new or
18 substantially rehabilitated dwelling units in one or more project
19 areas, if the agency finds, based on substantial evidence, after a
20 public hearing, that the aggregation will not cause or exacerbate
21 racial, ethnic, or economic segregation.

22 (B) To satisfy the requirements of paragraph (1) and
23 subparagraph (A), the agency may purchase, or otherwise acquire
24 or cause by regulation or agreement the purchase or other
25 acquisition of, long-term affordability covenants on multifamily
26 units that restrict the cost of renting or purchasing those units that
27 either: (i) are not presently available at affordable housing cost to
28 persons and families of low or very low income households, as
29 applicable; or (ii) are units that are presently available at affordable
30 housing cost to this same group of persons or families, but are
31 units that the agency finds, based upon substantial evidence, after
32 a public hearing, cannot reasonably be expected to remain
33 affordable to this same group of persons or families.

34 (C) To satisfy the requirements of paragraph (1) and
35 subparagraph (A), the long-term affordability covenants purchased
36 or otherwise acquired pursuant to subparagraph (B) shall be
37 required to be maintained on dwelling units at affordable housing
38 cost to, and occupied by, persons and families of low or very low
39 income, for the longest feasible time but not less than 55 years for
40 rental units and 45 years for owner-occupied units. Not more than

1 50 percent of the units made available pursuant to paragraph (1)
2 and subparagraph (A) may be assisted through the purchase or
3 acquisition of long-term affordability covenants pursuant to
4 subparagraph (B). Not less than 50 percent of the units made
5 available through the purchase or acquisition of long-term
6 affordability covenants pursuant to subparagraph (B) shall be
7 available at affordable housing cost to, and occupied by, very low
8 income households.

9 (D) To satisfy the requirements of paragraph (1) and
10 subparagraph (A), each mutual self-help housing unit, as defined
11 in subparagraph (C) of paragraph (1) of subdivision (f) of Section
12 33334.3, that is subject to a 15-year deed restriction shall count as
13 one-third of a unit.

14 (3) The requirements of this subdivision shall apply
15 independently of the requirements of subdivision (a). The
16 requirements of this subdivision shall apply, in the aggregate, to
17 housing made available pursuant to paragraphs (1) and (2),
18 respectively, and not to each individual case of rehabilitation,
19 development, or construction of dwelling units, unless an agency
20 determines otherwise.

21 (4) Each redevelopment agency, as part of the implementation
22 plan required by Section 33490, shall adopt a plan to comply with
23 the requirements of this subdivision for each project area. The plan
24 shall be consistent with, and may be included within, the
25 community's housing element. The plan shall be reviewed and, if
26 necessary, amended at least every five years in conjunction with
27 ~~either the housing element cycle or the plan implementation cycle.~~
28 The plan shall ensure that the requirements of this subdivision are
29 met every 10 years. If the requirements of this subdivision are not
30 met by the end of each 10-year period, the agency shall meet these
31 goals on an annual basis until the requirements for the 10-year
32 period are met. If the agency has exceeded the requirements within
33 the 10-year period, the agency may count the units that exceed the
34 requirement in order to meet the requirements during the next
35 10-year period. The plan shall contain the contents required by
36 paragraphs (2), (3), and (4) of subdivision (a) of Section 33490.

37 (c) (1) The agency shall require that the aggregate number of
38 replacement dwelling units and other dwelling units rehabilitated,
39 developed, constructed, or price restricted pursuant to subdivision
40 (a) or (b) remain available at affordable housing cost to, and

1 occupied by, persons and families of—~~low-income,~~
2 ~~moderate-income, and very low income households~~ *extremely low*
3 *income, very low income, low income, and moderate income,*
4 respectively, for the longest feasible time, but for not less than 55
5 years for rental units, 45 years for home ownership units, and 15
6 years for mutual self-help housing units, as defined in subparagraph
7 (C) of paragraph (1) of subdivision (f) of Section 33334.3, except
8 as set forth in paragraph (2). Nothing in this paragraph precludes
9 the agency and the developer of the mutual self-help housing units
10 from agreeing to 45-year deed restrictions.

11 (2) Notwithstanding paragraph (1), the agency may permit sales
12 of owner-occupied units prior to the expiration of the 45-year
13 period, and mutual self-help housing units prior to the expiration
14 of the 15-year period, established by the agency for a price in
15 excess of that otherwise permitted under this subdivision pursuant
16 to an adopted program that protects the agency's investment of
17 moneys from the Low and Moderate Income Housing Fund,
18 including, but not limited to, an equity sharing program that
19 establishes a schedule of equity sharing that permits retention by
20 the seller of a portion of those excess proceeds, based on the length
21 of occupancy. The remainder of the excess proceeds of the sale
22 shall be allocated to the agency, and deposited into the Low and
23 Moderate Income Housing Fund. The agency shall, within three
24 years from the date of sale pursuant to this paragraph of each home
25 ownership or mutual self-help housing unit subject to a 45-year
26 deed restriction, and every third mutual self-help housing unit
27 subject to a 15-year deed restriction, expend funds to make
28 affordable an equal number of units at the same or lowest income
29 level as the unit or units sold pursuant to this paragraph, for a
30 period not less than the duration of the original deed restrictions.
31 Only the units originally assisted by the agency shall be counted
32 towards the agency's obligations under Section 33413.

33 (3) The requirements of this section shall be made enforceable
34 in the same manner as provided in paragraph (7) of subdivision
35 (f) of Section 33334.3.

36 (4) If land on which the dwelling units required by this section
37 are located is deleted from the project area, the agency shall
38 continue to require that those units remain affordable as specified
39 in this subdivision.

(5) For each unit counted towards the requirements of subdivisions *subdivision* (a) ~~and~~ or (b), the agency shall require the recording in the office of the county recorder of covenants or restrictions that ensure compliance with this subdivision. With respect to covenants or restrictions that are recorded on or after January 1, 2008, the agency shall comply with the requirements of paragraphs (3) and (4) of subdivision (f) of Section 33334.3.

(d) (1) This section applies only to redevelopment projects for which a final redevelopment plan is adopted pursuant to Article 5 (commencing with Section 33360) on or after January 1, 1976, and to areas that are added to a project area by amendment to a final redevelopment plan adopted on or after January 1, 1976. In addition, subdivision (a) shall apply to any other redevelopment project with respect to dwelling units destroyed or removed from the low- and moderate-income housing market on or after January 1, 1996, irrespective of the date of adoption of a final redevelopment plan or an amendment to a final redevelopment plan adding areas to a project area. Additionally, any agency may, by resolution, elect to make all or part of the requirements of this section applicable to any redevelopment project of the agency for which the final redevelopment plan was adopted prior to January 1, 1976. In addition, subdivision (b) shall apply to redevelopment plans adopted prior to January 1, 1976, for which an amendment is adopted pursuant to Section 33333.10, except that subdivision (b) shall apply to those redevelopment plans prospectively only so that the requirements of subdivision (b) shall apply only to new and substantially rehabilitated dwelling units for which the building permits are issued on or after the date that the ordinance adopting the amendment pursuant to Section 33333.10 becomes effective.

(2) An agency may, by resolution, elect to require that whenever dwelling units housing persons or families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project, the agency shall replace each dwelling unit with up to three replacement dwelling units pursuant to subdivision (a).

(e) Except as otherwise authorized by law, this section does not authorize an agency to operate a rental housing development beyond the period reasonably necessary to sell or lease the housing development.

(f) Notwithstanding subdivision (a), the agency may replace destroyed or removed dwelling units with a fewer number of replacement dwelling units if the replacement dwelling units meet both of the following criteria:

(1) The total number of bedrooms in the replacement dwelling units equals or exceeds the number of bedrooms in the destroyed or removed units. Destroyed or removed units having one or no bedroom are deemed for this purpose to have one bedroom.

(2) The replacement units are affordable to and occupied by the same income level of households as the destroyed or removed units.

(g) “Longest feasible time,” as used in this section, includes, but is not limited to, unlimited duration.

(h) *If a court finds that an agency has failed to comply with the requirements of this section, the court, at a minimum, shall issue an order that prohibits the agency from issuing any debt for any project area, except debt from which all the proceeds will be deposited into the Low and Moderate Income Housing Fund or otherwise used to comply with the requirements of this section, until such time as the court finds that the agency has fully complied with the requirements of this section.*

SEC. 15. *Section 33413.5 of the Health and Safety Code is amended to read:*

33413.5. Not less than 30 days prior to the execution of an agreement for acquisition of real property, ~~or the execution of an agreement for the disposition and development of property, or the execution of an owner participation agreement, which or other~~ agreement or assistance that would lead to the destruction or removal of dwelling units from the low- and moderate-income housing market, the agency shall adopt by resolution a replacement housing plan. For a reasonable time prior to adopting a replacement housing plan by resolution, the agency shall make available a draft of the proposed replacement housing plan for review and comment by the project area committee, other public agencies, and the general public.

The replacement housing plan shall include (1) the general location of housing to be ~~rehabilitated, developed,~~ *rehabilitated* or constructed pursuant to Section 33413, (2) *a description of the occupancy and affordability restrictions to be imposed on the replacement dwelling units,* (3) *substantial evidence supporting a*

1 *finding that the replacement dwelling units will meet the needs of*
2 *households in the income categories of the households displaced*
3 *from the dwelling units that the replacement units are intended to*
4 *replace, (4) a declaration of whether the agency intends to*
5 *rehabilitate existing dwelling units pursuant to paragraph (5) of*
6 *subdivision (a) of Section 33413, (5) an adequate means of*
7 *financing such—rehabilitation,—development, rehabilitation or*
8 *construction,—(3) (6) a finding that the replacement housing does*
9 *not require the approval of the voters pursuant to Article XXXIV*
10 *of the California Constitution, or that such approval has been*
11 *obtained,—(4) (7) the number of dwelling units housing persons*
12 *and families of low or moderate income planned for construction*
13 *or rehabilitation, and—(5) (8) the timetable for meeting the plan’s*
14 *relocation, rehabilitation, and replacement housing objectives. A*
15 *dwelling unit whose replacement is required by Section 33413 but*
16 *for which no replacement housing plan has been prepared, shall*
17 *not be destroyed or removed from the low- and moderate-income*
18 *housing market until the agency has by resolution adopted a*
19 *replacement housing plan.*

20 Nothing in this section shall prevent an agency from destroying
21 or removing from the low- and moderate-income housing market
22 a dwelling unit which the agency owns and which is an immediate
23 danger to health and safety. The agency shall, as soon as
24 practicable, adopt by resolution a replacement housing plan with
25 respect to such dwelling unit.

26 *SEC. 16. Section 33418 of the Health and Safety Code is*
27 *amended to read:*

28 33418. (a) An agency shall monitor, on an ongoing basis, any
29 housing affordable to persons and families of low or moderate
30 income developed or otherwise made available pursuant to any
31 provisions of this part. As part of this monitoring, an agency shall
32 require owners or managers of the housing to submit an annual
33 report to the agency. The annual reports shall include for each
34 rental unit the rental rate and the income and family size of the
35 occupants, and for each owner-occupied unit whether there was a
36 change in ownership from the prior year and, if so, the income and
37 family size of the new owners. The income information required
38 by this section shall be supplied by the tenant in a certified
39 statement on a form provided by the agency.

(b) The data specified in subdivision (a) shall be obtained by the agency from owners and managers of the housing specified therein and current data shall be included in any reports required by law to be submitted to the Department of Housing and Community Development or the Controller. The information on income and family size that is required to be reported by the owner or manager shall be supplied by the tenant and shall be the only information on income or family size that the owner or manager shall be required to submit on his or her annual report to the agency.

(c) (1) The agency shall compile and maintain a database of existing, new and substantially rehabilitated, housing units developed or otherwise assisted with moneys from the Low and Moderate Income Housing Fund, or otherwise counted towards the requirements of subdivision (a) or (b) of Section 33413. The database shall be made available to the public on the Internet and updated on an annual basis and shall include the date the database was last updated. The database shall require all of the following information for each owner-occupied unit or rental unit, or for each group of units, if more than one unit is subject to the same covenant:

(A) The street address and assessor's parcel number of the property.

(B) The size of each unit, measured by the number of bedrooms.

(C) The year in which the construction or substantial rehabilitation of the unit was completed.

(D) The date of recordation and document number of the affordability covenants or restrictions required under subdivision (f) of Section 33334.3.

(E) The date on which the covenants or restrictions expire.

(F) For owner-occupied units that have changed ownership during the reporting year, as described in subdivision (a), the date and document number of the new affordability covenants or other documents recorded to ~~assure~~ *ensure* that the affordability restriction is enforceable and continues to run with the land.

(G) Whether occupancy in the unit or units is restricted to any special population, including senior citizens.

(H) *The affordability level of each unit.*

(I) *Whether the unit is a rental or ownership unit.*

1 (J) Whether the unit is being counted towards a replacement
2 obligation pursuant to subdivision (a) of Section 33413 or towards
3 a production obligation pursuant to subdivision (b) of Section
4 33413.

5 (K) The project type, including, but not limited to, new
6 construction, substantial rehabilitation, preservation, or the
7 purchase of long-term affordability covenants.

8 (2) Notwithstanding subparagraphs (A) and (D) of paragraph
9 (1), the database shall omit any property used to confidentially
10 house victims of domestic violence.

11 (3) Upon establishment of a database under this section, the
12 agency shall provide reasonable notice to the community regarding
13 the existence of the database.

14 (d) The agency shall adequately fund its monitoring activities
15 as needed to insure compliance of applicable laws and agreements
16 in relation to affordable units. For purposes of defraying the cost
17 of complying with the requirements of this section and the changes
18 in reporting requirements of Section 33080.4 enacted by the act
19 enacting this section, an agency may establish and impose fees
20 upon owners of properties monitored pursuant to this section.

21 (e) The agency shall continue to monitor and enforce the
22 covenants covered by this section for the entire period of the
23 covenant. In the event the agency ceases its activities prior to the
24 entire period of the covenants, then its designated successor agency
25 shall monitor and enforce the covenants for the remaining period
26 of the covenant. If a successor agency is not designated at the time
27 the agency ceases its activities, then the community shall monitor
28 and enforce the covenants for the remaining period of the covenant.

29 SEC. 17. Article 13 (commencing with Section 33460) is added
30 to Chapter 4 of Part 1 of Division 24 of the Health and Safety
31 Code, to read:

32
33 Article 13. Accountability Audits
34

35 33460. (a) The Legislature hereby finds and declares both of
36 the following:

37 (1) Past department audits of redevelopment agencies have
38 uncovered errors, omissions, and violations that have resulted in
39 significant repayments to agencies' Low and Moderate Income
40 Housing Fund, thereby providing additional resources for

1 *increasing, improving, and preserving the supply of low- and*
2 *moderate-income housing available at affordable housing cost.*

3 *(2) Providing funding for future department audits of*
4 *redevelopment agencies will ensure that tax increment, interest,*
5 *and debt proceeds are appropriately deposited into the Low and*
6 *Moderate Income Housing Fund and that agencies make only legal*
7 *expenditures from the fund, thereby providing additional resources*
8 *for increasing, improving, and preserving the supply of low- and*
9 *moderate-income housing available at affordable housing cost.*

10 *As a result, the deposits required by this section are permissible*
11 *pursuant to paragraph (7) of subdivision (a) of Section 25.5 of*
12 *Article XIII of the California Constitution.*

13 *(b) Immediately upon receipt, each agency shall annually*
14 *deposit one-half of one-tenth (.0005) percent of any tax increment*
15 *deposited into the Low and Moderate Income Housing Fund into*
16 *the Redevelopment Agency Accountability Fund created pursuant*
17 *to Section 50464.5 to be used solely for the purpose described in*
18 *subdivision (b) of that section.*

19 *SEC. 18. Section 33487 of the Health and Safety Code is*
20 *amended to read:*

21 33487. (a) Subject to subdivisions (a) and (b) of Section
22 33486, not less than 20 percent of all taxes that are allocated to
23 the redevelopment agency pursuant to Section 33670 for
24 redevelopment projects merged pursuant to this article, irrespective
25 of the date of adoption of the final redevelopment plans, shall be
26 deposited by the agency in the Low and Moderate Income Housing
27 Fund established pursuant to Section 33334.3, or which shall be
28 established for purposes of this section. The agency shall use the
29 moneys in this fund to assist in the construction or rehabilitation
30 of housing units that will be available to, or occupied by, persons
31 and families of low or moderate income, as defined in Section
32 50093, and very low income households, as defined in Section
33 50105, for the longest feasible time period but not less than 55
34 years for rental units and 45 years for owner-occupied units. For
35 the purposes of this subdivision, "construction and rehabilitation"
36 shall include acquisition of land, improvements to land; the
37 acquisition, rehabilitation, or construction of structures; or the
38 provision of subsidies necessary to provide housing for persons
39 and families of low or moderate income, as defined in Section

1 50093, and very low income households, as defined in Section
2 50105.

3 (b) The agency may use the funds set aside by subdivision (a)
4 inside or outside the project area. However, the agency may only
5 use these funds outside the project area upon a resolution of the
6 agency and the legislative body that the use will be of benefit to
7 the project. This determination by the agency and the legislative
8 body shall be final and conclusive as to the issue of benefit to the
9 project area. The Legislature finds and declares that the provision
10 of replacement housing pursuant to Section 33413 is of benefit to
11 a project.

12 The Legislature finds and declares that expenditures or
13 obligations incurred by the agency pursuant to this section shall
14 constitute an indebtedness of the project.

15 ~~(c) If moneys deposited in the Low and Moderate Income~~
16 ~~Housing Fund pursuant to this section have not been committed~~
17 ~~for the purposes specified in subdivisions (a) and (b) for a period~~
18 ~~of six years following deposit in that fund, the agency shall offer~~
19 ~~these moneys to the housing authority that operates within the~~
20 ~~jurisdiction of the agency, if activated pursuant to Section 34240,~~
21 ~~for the purpose of constructing or rehabilitating housing as~~
22 ~~provided in subdivisions (a) and (b). However, if no housing~~
23 ~~authority operates within the jurisdiction of the agency, the agency~~
24 ~~may retain these moneys for use pursuant to this section.~~

25 ~~(d)~~

26 (c) If the agency deposits less than 20 percent of taxes allocated
27 pursuant to Section 33670, due to the provisions of subdivisions
28 (a) and (b) of Section 33486, in any fiscal year, a deficit shall be
29 created in the Low and Moderate Income Housing Fund in an
30 amount equal to the difference between 20 percent of the taxes
31 allocated pursuant to Section 33670 and the amount deposited in
32 that year. The deficit, if any, created pursuant to this section
33 constitutes an indebtedness of the project. The agency shall
34 eliminate the deficit by expending taxes allocated in years
35 subsequent to creation of the deficit and, until the time when that
36 deficit has been eliminated, an agency shall not incur new
37 obligations for purposes other than those set forth in Section 33487,
38 except to comply with the terms of any resolution or other
39 agreement pledging taxes allocated pursuant to Section 33670 that
40 existed on the date of merger pursuant to this article.

1 (e)

2 (d) Notwithstanding subdivision (d) of Section 33413, any
3 agency that merges its redevelopment project areas pursuant to
4 this article shall be subject to subdivisions (a) and (c) of Section
5 33413.

6 *SEC. 19. Section 33490 of the Health and Safety Code is*
7 *amended to read:*

8 33490. (a) (1) (A) On or before December 31, 1994, and each
9 five years thereafter, each agency that has adopted a redevelopment
10 plan prior to December 31, 1993, shall adopt, after a public hearing,
11 an implementation plan that shall contain the specific goals and
12 objectives of the agency for the project area, the specific programs,
13 including potential projects, and estimated expenditures proposed
14 to be made during the next five years, and an explanation of how
15 the goals and objectives, programs, and expenditures will eliminate
16 blight within the project area and implement the requirements of
17 Section 33333.10, if applicable, and Sections 33334.2, 33334.4,
18 33334.6, ~~and~~ 33413, *and* 33487. After adoption of the first
19 implementation plan, the parts of the implementation plan that
20 address Section 33333.10, if applicable, and Sections 33334.2,
21 33334.4, 33334.6, ~~and~~ 33413, *and* 33487 shall be adopted every
22 five years ~~either in conjunction with the housing element cycle or~~
23 ~~the implementation plan cycle~~ and shall be made available to the
24 public on the Internet. The agency may amend the implementation
25 plan after conducting a public hearing on the proposed amendment.
26 If an action attacking the adoption, approval, or validity of a
27 redevelopment plan adopted prior to January 1, 1994, has been
28 brought pursuant to Chapter 5 (commencing with Section 33500),
29 the first implementation plan required pursuant to this section shall
30 be adopted within six months after a final judgment or order has
31 been entered. Subsequent implementation plans required pursuant
32 to this section shall be adopted pursuant to the terms of this section,
33 and as if the first implementation plan had been adopted on or
34 before December 31, 1994.

35 (B) Adoption of an implementation plan shall not constitute an
36 approval of any specific program, project, or expenditure and shall
37 not change the need to obtain any required approval of a specific
38 program, project, or expenditure from the agency or community.
39 The adoption of an implementation plan shall not constitute a
40 project within the meaning of Section 21000 of the Public

Resources Code. However, the inclusion of a specific program, potential project, or expenditure in an implementation plan prepared pursuant to subdivision (c) of Section 33352 in conjunction with a redevelopment plan adoption shall not eliminate analysis of those programs, potential projects, and expenditures in the environmental impact report prepared pursuant to subdivision (k) of Section 33352 to the extent that it would be otherwise required. In addition, the inclusion of programs, potential projects, and expenditures in an implementation plan shall not eliminate review pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), at the time of the approval of the program, project, or expenditure, to the extent that it would be otherwise required.

(2) (A) A portion of the implementation plan shall address the agency housing responsibilities and shall contain a section addressing Section 33333.10, if applicable, and Sections 33334.2, 33334.4, and 33334.6, the Low and Moderate Income Housing Fund, and, if subdivision (b) of Section 33413 applies, a section addressing agency developed and project area housing. The section addressing the Low and Moderate Income Housing Fund shall contain:

(i) The amount available in the Low and Moderate Income Housing Fund and the estimated amounts which will be deposited in the Low and Moderate Income Housing Fund during each of the next five years.

(ii) A housing program with estimates of the number of new, rehabilitated, or price restricted units to be assisted during each of the five years and estimates of the expenditures of moneys from the Low and Moderate Income Housing Fund during each of the five years.

(iii) A description of how the housing program will implement the requirement for expenditures of moneys in the Low and Moderate Income Housing Fund over a 10-year period *or 5-year period, as applicable*, for various groups as required by Section 33334.4. For project areas to which subdivision (b) of Section 33413 applies, the 10-year period within which *subdivision (b) of Section 33334.4 33413* is required to be implemented shall ~~be coincide with the same 10-year period within which subdivision (b) of Section 33413~~ *or within two 5-year periods, as applicable*,

1 *within which Section 33334.4* is required to be implemented.
2 Notwithstanding the first sentence of Section 33334.4 and the first
3 sentence of this clause, in order to allow these two 10-year time
4 periods to coincide for the first time period, the time to implement
5 the requirements of Section 33334.4 shall be extended two years,
6 and project areas in existence on December 31, 1993, shall
7 implement the requirements of Section 33334.4 on or before
8 December 31, 2014, ~~and each 10 years thereafter~~ rather than
9 December 31, 2012. For project areas to which subdivision (b) of
10 Section 33413 does not apply, the requirements of Section 33334.4
11 shall be implemented on or before December 31, 2014, ~~and each~~
12 ~~10 years thereafter 2014.~~

13 (iv) This requirement to include a description of how the housing
14 program will implement Section 33334.4 in the implementation
15 plan shall apply to implementation plans adopted pursuant to
16 subdivision (a) on or after December 31, 2002.

17 (B) For each project area to which subdivision (b) of Section
18 33413 applies, the section addressing the agency developed and
19 project area housing shall contain:

20 (i) Estimates of the number of new, substantially rehabilitated
21 or price restricted residential units to be developed or purchased
22 within one or more project areas, both over the life of the plan and
23 during the next 10 years.

24 (ii) Estimates of the number of units of very low, low-, and
25 moderate-income households required to be developed within one
26 or more project areas in order to meet the requirements of
27 paragraph (2) of subdivision (b) of Section 33413, both over the
28 life of the plan and during the next 10 years.

29 (iii) *The statement of the* number of units of very low, low-, and
30 moderate-income households which have been developed *over the*
31 *life of the plan* within one or more project areas which meet the
32 requirements of ~~paragraph (2) of~~ subdivision (b) of Section 33413.

33 (iv) Estimates of the number of agency developed residential
34 units which will be developed during the next five years, if any,
35 which will be governed by paragraph (1) of subdivision (b) of
36 Section 33413.

37 (v) Estimates of the number of agency developed units for very
38 low, low-, and moderate-income households which will be
39 developed by the agency during the next five years to meet the
40 requirements of paragraph (1) of subdivision (b) of Section 33413.

(C) The section addressing Section 33333.10, if applicable, and Section 33334.4 shall contain all of the following:

(i) ~~The number of housing units needed for very low income persons, low-income persons, and moderate-income persons as each of those needs have been identified in the most recent determination pursuant to Section 65584 of the Government Code, and the proposed amount of expenditures from the Low and Moderate Income Housing Fund for each income group proposed~~ *amount of expenditures from the Low and Moderate Income Housing Fund for the new construction, acquisition and substantial rehabilitation, or preservation of housing for persons of extremely low, very low, or low income during each year of the implementation plan period.*

(ii) The total population of the community and the population under 65 years of age as reported in the most recent census of the United States Census Bureau.

(iii) A housing program that provides a detailed schedule of actions the agency is undertaking or intends to undertake to ensure expenditure of the Low and Moderate Income Housing Fund in the proportions required by Section 33333.10, if applicable, and Section 33334.4.

(iv) ~~For the previous implementation plan period, the amounts of Low and Moderate Income Housing Fund moneys utilized to assist units affordable to, and occupied by, extremely low income households, very low income households, and low-income households; the number, the location, and level of affordability of units newly constructed with other locally controlled government assistance and without agency assistance and that are required to be affordable to, and occupied by, persons of low, very low, or extremely low income for at least 55 years for rental housing or 45 years for home ownership~~ *home ownership housing, and the amount of Low and Moderate Income Housing Fund moneys utilized to assist housing units available to families with children, and the number, location, and level of affordability of those units.*

(v) *A demonstration, based on substantial evidence in the plan, that as of the end of the immediately preceding 5-year implementation planning period, the agency's aggregate expenditures from the Low and Moderate Income Housing Fund, exclusive of debt service payments, between the end of the last 10-year implementation period referenced in paragraph (1) of*

1 *subdivision (a) of Section 33334.4 and the end of the immediately*
2 *preceding 5-year implementation planning period satisfy the*
3 *proportionality requirements set forth in paragraph (2) of*
4 *subdivision (a) of Section 33334.4.*

5 (3) If the implementation plan contains a project that will result
6 in the destruction or removal of dwelling units that will have to
7 be replaced pursuant to subdivision (a) of Section 33413, the
8 implementation plan shall identify proposed locations suitable for
9 those replacement dwelling units.

10 *If the implementation plan contains a project that has resulted*
11 *in the destruction or removal of dwelling units that must be*
12 *replaced pursuant to subdivision (a) of Section 33413, the*
13 *implementation plan shall identify either of the following:*

14 (A) *The replacement dwelling units that satisfy each replacement*
15 *housing obligation.*

16 (B) *In the case where dwelling units have been destroyed or*
17 *removed, but replacement units are not yet complete, the proposed*
18 *location of the replacement dwelling units.*

19 (4) *The implementation plan shall include a complete accounting*
20 *for compliance with the agency's affordable housing obligations*
21 *over the life of the plan, including the total number of units the*
22 *agency is obligated to replace pursuant to subdivision (a) of*
23 *Section 33413, the number of units the agency is obligated to*
24 *produce pursuant to subdivision (b) of Section 33413, and the*
25 *number of dwelling units that satisfy these obligations.*

26 (A) *For each owner-occupied unit or rental unit counted towards*
27 *meeting the agency obligations under subdivision (a) or (b) of*
28 *Section 33413 and required to be included in the database required*
29 *pursuant to subdivision (c) of Section 33418, or for each group of*
30 *such units, if more than one unit is subject to the same covenant,*
31 *the implementation plan shall identify all of the following:*

32 (i) *The street address and assessor's parcel number of the*
33 *property and, for properties where units are listed as a group, the*
34 *number of units.*

35 (ii) *The size of each unit, measured by the number of bedrooms.*

36 (iii) *The affordability level of each unit, according to the*
37 *categories required by Section 33413.*

38 (iv) *The year in which the construction or substantial*
39 *rehabilitation of the unit was completed.*

1 (v) *The date of recordation and document number of the*
2 *affordability covenants or restrictions required under subdivision*
3 *(f) of Section 33334.3 or subdivision (c) of Section 33413.*

4 (vi) *The date on which the covenants or restrictions expire.*

5 (vii) *For the projects developed prior to January 1, 2002, a*
6 *statement of the effective period of the land use controls established*
7 *in the plan at the time each unit was developed, in order to*
8 *demonstrate that the duration of the covenants or restrictions*
9 *extends for a period not less than the applicable period of land*
10 *use controls, in accordance with then applicable law.*

11 (viii) *For owner-occupied units that have changed ownership*
12 *during the previous implementation plan period, the date and*
13 *document number of the new affordability covenants or other*
14 *documents recorded to ensure that the affordability restriction is*
15 *enforceable and continues to run with the land.*

16 (ix) *Whether the unit counts towards a replacement obligation*
17 *pursuant to subdivision (a) of Section 33413 or towards a*
18 *production obligation pursuant to subdivision (b) of Section 33413.*
19 *Units counted towards a replacement obligation shall reference*
20 *the destroyed units they are replacing.*

21 (B) *For each owner-occupied unit or rental unit counted towards*
22 *meeting the agency obligations under subdivision (a) or (b) of*
23 *Section 33413 and not required to be included in the database*
24 *required pursuant to subdivision (c) of Section 33418, or for each*
25 *group of such units, if more than one unit is subject to the same*
26 *covenant, the implementation plan shall identify all of the*
27 *following:*

28 (i) *The street address and, if available, assessor's parcel number*
29 *of the property.*

30 (ii) *For properties where units are listed as a group, the number*
31 *of units.*

32 (iii) *The affordability level of each unit, according to the*
33 *categories required by Section 33413.*

34 (iv) *The year in which the construction or substantial*
35 *rehabilitation of the unit was completed.*

36 (v) *The date of recordation and document number of the*
37 *affordability covenants or restrictions required under subdivision*
38 *(f) of Section 33334.3 or subdivision (c) of Section 33413.*

39 (vi) *The date on which the covenants or restrictions expired.*

1 (vii) *Whether the unit counts towards a replacement obligation*
2 *pursuant to subdivision (a) of Section 33413 or towards a*
3 *production obligation pursuant to subdivision (b) of Section 33413.*
4 *Units counted towards a replacement obligation shall reference*
5 *the destroyed units they are replacing.*

6 (5) *Notwithstanding subparagraphs (A) and (E) of paragraph*
7 *(4), the implementation plan shall omit any property used to*
8 *confidentially house victims of domestic violence.*

9 ~~(4)~~

10 (6) For a project area that is within six years of the time limit
11 on the effectiveness of the redevelopment plan established pursuant
12 to Section 33333.2, 33333.6, 33333.7, or 33333.10, the portion of
13 the implementation plan addressing the housing responsibilities
14 shall specifically address the ability of the agency to comply, prior
15 to the time limit on the effectiveness of the redevelopment plan,
16 with subdivision (a) of Section 33333.8, subdivision (a) of Section
17 33413 with respect to replacement dwelling units, subdivision (b)
18 of Section 33413 with respect to project area housing, and the
19 disposition of the remaining moneys in the Low and Moderate
20 Income Housing Fund.

21 ~~(5)~~

22 (7) The implementation plan shall identify the fiscal year that
23 the agency expects each of the following time limits to expire:

24 (A) The time limit for the commencement for eminent domain
25 proceedings to acquire property within the project area.

26 (B) The time limit for the establishment of loans, advances, and
27 indebtedness to finance the redevelopment project.

28 (C) The time limit for the effectiveness of the redevelopment
29 plan.

30 (D) The time limit to repay indebtedness with the proceeds of
31 property taxes.

32 (b) For a project area for which a redevelopment plan is adopted
33 on or after January 1, 1994, the implementation plan prepared
34 pursuant to subdivision (c) of Section 33352 shall constitute the
35 initial implementation plan and thereafter the agency after a public
36 hearing shall adopt an implementation plan every five years
37 commencing with the fifth year after the plan has been adopted.
38 Agencies may adopt implementation plans that include more than
39 one project area.

(c) Every agency, at least once within the five-year term of the plan, shall conduct a public hearing and hear testimony of all interested parties for the purpose of reviewing the redevelopment plan and the corresponding implementation plan for each redevelopment project within the jurisdiction and evaluating the progress of the redevelopment project. The hearing required by this subdivision shall take place no earlier than two years and no later than three years after the adoption of the implementation plan. For a project area that is within three years of the time limit on the effectiveness of the redevelopment plan established pursuant to Section 33333.2, 33333.6, 33333.7, or 33333.10, the review shall specifically address those items in paragraph (4) of subdivision (a). An agency may hold one hearing for two or more project areas if those project areas are included within the same implementation plan.

(d) Notice of public hearings conducted pursuant to this section shall be published pursuant to Section 6063 of the Government Code, mailed at least three weeks in advance to all persons and agencies that have requested notice, and posted in at least four permanent places within the project area for a period of three weeks. Publication, mailing, and posting shall be completed not less than 10 days prior to the date set for hearing.

SEC. 20. Section 33506 is added to the Health and Safety Code, to read:

33506. (a) A failure to meet any of the following obligations shall be an ongoing violation until the agency has fully met the obligation:

(1) The obligation to eliminate project deficits pursuant to Sections 33334.6, 33487, 33492.16, and other similar and related provisions of law.

(2) The obligation to expend or encumber excess surplus funds pursuant to Section 33334.12 and other similar and related provisions of law.

(3) The obligation to provide relocation assistance pursuant to Article 9 (commencing with Section 33410), Section 7260 of the Government Code, or other applicable relocation laws.

(4) The obligation to provide replacement housing pursuant to subdivision (a) of Section 33413, Article 9 (commencing with Section 33410), and other similar and related provisions of law.

1 (5) *The obligation to provide housing pursuant to subdivision*
2 *(b) of Section 33413 and other similar and related provisions of*
3 *law.*

4 (6) *The obligation to monitor and enforce affordability*
5 *covenants required pursuant to Section 33418.*

6 (7) *The obligation to continue the project past the effectiveness*
7 *date of the redevelopment plan pursuant to Section 33333.8.*

8 (8) *The obligation to expend funds proportionately to assist*
9 *housing for persons of extremely low, very low, or low income or*
10 *to assist housing available to all persons regardless of age*
11 *pursuant to Section 33334.4.*

12 (9) *The obligations to record covenants that run with the land*
13 *pursuant to subdivision (f) of Section 33334.3 and subdivision (c)*
14 *of Section 33413(c).*

15 (b) *This section is declaratory of existing law.*

16 SEC. 21. *Section 50464.5 is added to the Health and Safety*
17 *Code, to read:*

18 50464.5. (a) *The Redevelopment Agency Accountability Fund*
19 *is hereby created in the State Treasury and is available, upon*
20 *appropriation, to the department for the purposes of subdivision*
21 *(b). Notwithstanding Section 16305.7 of the Government Code,*
22 *any moneys received by the department pursuant to Section 33460,*
23 *and any other sources, repayments, interest, or new appropriations,*
24 *shall be deposited in the fund. Moneys in the fund shall not be*
25 *subject to transfer to any other fund pursuant to any provision of*
26 *Part 2 (commencing with Section 16300) of Division 4 of Title 2*
27 *of the Government Code, except the Surplus Money Investment*
28 *Fund. The department may require the transfer of moneys in the*
29 *fund to the Surplus Money Investment Fund for investment pursuant*
30 *to Article 4 (commencing with Section 16470) of Chapter 3 of Part*
31 *2 of Division 4 of Title 2 of the Government Code. Notwithstanding*
32 *Section 16305.7 of the Government Code, all interest, dividends,*
33 *and pecuniary gains from the investments shall accrue to the fund.*

34 (b) *With funds made available pursuant to subdivision (a), the*
35 *department shall conduct audits of redevelopment agencies to*
36 *ensure compliance with the housing provisions of the Community*
37 *Redevelopment Law. The department shall include in the audits a*
38 *review of agency compliance with production and replacement*
39 *housing obligations, recording and monitoring of affordability*
40 *covenants, provision of relocation assistance, propriety of deposits*

1 *to and expenditures from the Low and Moderate Income Housing*
2 *Fund, compliance with the debt limit of the agency, adoption of a*
3 *legally sufficient implementation plan, each of the major audit*
4 *violations pursuant to subdivision (j) of Section 33080.8, and any*
5 *other accounting practice or provision of the Community*
6 *Redevelopment Law in the discretion of the department. The*
7 *department shall require that each agency take action to correct*
8 *the audit violations. If the department determines that an agency*
9 *has not corrected the audit violations within 180 days of a final*
10 *audit report, it shall forward all relevant documents to the Attorney*
11 *General for action pursuant to Section 33080.9. The department*
12 *shall make available on its Internet Web site the final audit reports,*
13 *a statement of any resolution of audit reports, or if not resolved,*
14 *the date audit reports were forwarded to the Attorney General.*

15 *SEC. 22. This act shall become operative only if Senate Bill*
16 *341 of the 2012–13 Regular Session is enacted and becomes*
17 *operative.*

18 ~~SECTION 1. Section 7073.1 of the Government Code is~~
19 ~~amended to read:~~

20 ~~7073.1. (a) Any city, county, or city and county with an eligible~~
21 ~~area within its jurisdiction may complete a preliminary application~~
22 ~~for designation as an enterprise zone. The applying entity shall~~
23 ~~establish definitive boundaries for the proposed enterprise zone~~
24 ~~and the targeted employment area. An entity may propose zones~~
25 ~~in areas with noncontiguous boundaries, and the department may~~
26 ~~designate those areas as zones if the director determines both of~~
27 ~~the following:~~

28 ~~(1) The noncontiguous area is needed to implement the~~
29 ~~applicant's economic development strategy.~~

30 ~~(2) The excluded area between the proposed zone boundaries~~
31 ~~would not, based on the proposed economic strategy, also benefit~~
32 ~~from the zone designation.~~

33 ~~(b) (1) In designating enterprise zones, the department shall~~
34 ~~select from the applications submitted those proposed enterprise~~
35 ~~zones that, upon a comparison of all of the applications submitted,~~
36 ~~indicate that they propose the most appropriate economic~~
37 ~~development strategy and implementation plan utilizing state and~~
38 ~~local programs and incentives to create jobs, attract private sector~~
39 ~~investment, and improve the economic conditions within the zone~~
40 ~~proposed. The department shall prescribe a format that promotes~~

~~1 succinct and focused strategies and plans, and set minimum
2 standards for the strategies and plans. For the purposes of this
3 subdivision, important elements of a strategy or plan may include,
4 but are not limited to, all of the following:~~

~~5 (A) An assessment of current financial and community
6 development strengths, needs, and opportunities.~~

~~7 (B) A framework for investment of time, action, and money.~~

~~8 (C) Clear articulation of goals.~~

~~9 (D) Measurable objectives, including targets.~~

~~10 (E) Proposed implementation activities and tasks, including
11 timeframes, and a framework for evaluating performance, including
12 qualitative and quantitative benchmarks.~~

~~13 (2) For purposes of this subdivision, local incentives may
14 include, but are not limited to, all of the following:~~

~~15 (A) The suspension or relaxation of locally originated or
16 modified building codes, zoning laws, general development plans,
17 or rent controls.~~

~~18 (B) The elimination or reduction of fees for applications,
19 permits, and local government services.~~

~~20 (C) The establishment of a streamlined permit process.~~

~~21 (D) Elimination or reduction of construction taxes or business
22 license taxes.~~

~~23 (E) The provision or expansion of infrastructure.~~

~~24 (F) The targeting of federal block grant moneys, including small
25 cities, education, and health and welfare block grants.~~

~~26 (G) The targeting of economic development grants and loan
27 moneys, including grant and loan moneys provided by the United
28 States Department of Housing and Urban Development.~~

~~29 (H) The targeting of state and federal job disadvantaged and
30 vocational education grant moneys, including moneys provided
31 by the federal Workforce Investment Act of 1998 (Public Law
32 105-220), or its successor.~~

~~33 (I) The targeting of federal or state transportation grant moneys.~~

~~34 (J) The targeting of federal or state low-income housing and
35 rental assistance moneys.~~

~~36 (K) The use of tax allocation bonds, special assessment bonds,
37 bonds under the Mello-Roos Community Facilities Act of 1982
38 (Chapter 2.5 (commencing with Section 53311) of Part 1 of
39 Division 2 of Title 5), industrial development bonds, revenue
40 bonds, private activity bonds, housing bonds, bonds issued pursuant~~

1 to the Marks-Roos Local Bond Pooling Act of 1985 (Article 4
2 (commencing with Section 6584) of Chapter 5), certificates of
3 participation, hospital bonds, redevelopment bonds, school bonds,
4 and all special provisions provided for under federal tax law for
5 enterprise community or empowerment zone bonds.

6 (3) ~~When designating new enterprise zones, the department~~
7 ~~shall take into consideration the location of existing zones and~~
8 ~~make every effort to locate new zones in a manner that will not~~
9 ~~adversely affect any existing zones.~~

10 (4) ~~When reviewing and ranking new enterprise zone~~
11 ~~applications, the department shall give bonus points to applications~~
12 ~~from jurisdictions that meet minimum threshold points and at least~~
13 ~~two of the following criteria:~~

14 (A) ~~The percentage of households within the census tracts of~~
15 ~~the proposed enterprise zone area, the income of which is below~~
16 ~~the poverty level, is at least 17.5 percent.~~

17 (B) ~~The average unemployment rate for the census tracts of the~~
18 ~~proposed enterprise zone area was not less than five percentage~~
19 ~~points above the statewide average for the most recent calendar~~
20 ~~year as determined by the Employment Development Department.~~

21 (C) ~~The applicant jurisdiction has, and can document that it has,~~
22 ~~a unique distress factor affecting long-term economic development,~~
23 ~~including, but not limited to, resource depletion, plant closure,~~
24 ~~industry recession, natural disaster, or military base closure.~~

25 (5) ~~Except as modified pursuant to paragraph (4), applications~~
26 ~~shall be ranked by the appropriateness of the economic~~
27 ~~development strategy and implementation plan, including all of~~
28 ~~the following:~~

29 (A) ~~The extent the strategy clearly identifies the local resources,~~
30 ~~incentives, and programs that will be made available to the zone~~
31 ~~for meeting its goals and objectives.~~

32 (B) ~~The extent the strategy provides for attracting private sector~~
33 ~~investment.~~

34 (C) ~~The extent the strategy includes related regional and~~
35 ~~community-based partnerships for achieving the goals and~~
36 ~~objectives in the strategy.~~

37 (D) ~~The extent the strategy fits within the jurisdiction's overall~~
38 ~~economic development strategy, including the extent the strategy~~
39 ~~and implementation plan is appropriate for the local community.~~

1 ~~(E) The extent the strategy addresses the hiring and retention~~
2 ~~of unemployed or underemployed residents or low-income~~
3 ~~individuals in the proposed zone and surrounding areas.~~

4 ~~(F) The extent the strategy sets reasonable and measurable~~
5 ~~benchmarks, goals, and objectives.~~

6 ~~(G) The extent the strategy sets forth an appropriate funding~~
7 ~~schedule for management, oversight, and program delivery within~~
8 ~~the zone relative to the benchmarks, goals, and objectives in the~~
9 ~~strategy.~~

10 ~~(H) The extent that the economic development strategy has a~~
11 ~~comprehensive incentive package for attracting private investment~~
12 ~~to the enterprise zone.~~

13 ~~(c) For any application for an enterprise zone designation~~
14 ~~submitted on or after January 1, 2014, both of the following shall~~
15 ~~apply:~~

16 ~~(1) If any portion of the proposed zone is within, or previously~~
17 ~~was within, the boundaries of a previously designated enterprise~~
18 ~~zone, the aggregate size of the proposed enterprise zone shall not~~
19 ~~exceed the size of the previously designated enterprise zone by~~
20 ~~more than 15 percent.~~

21 ~~(2) If any portions of the proposed zone are within, or previously~~
22 ~~were within, the boundaries of two or more previously designated~~
23 ~~enterprise zones, the aggregate size of the proposed enterprise zone~~
24 ~~shall not exceed the size of the largest single previously designated~~
25 ~~enterprise zone by more than 15 percent.~~

26 ~~(d) In evaluating applications for designation, the department~~
27 ~~shall ensure that applications are not disqualified solely because~~
28 ~~of technical deficiencies, and shall provide applicants with an~~
29 ~~opportunity to correct the deficiencies. Applications shall be~~
30 ~~disqualified if the deficiencies are not corrected within two weeks.~~

31 ~~(e) Except upon dedesignation pursuant to subdivision (c) of~~
32 ~~Section 7076.1, Section 7076.2, or Section 7085.1, a designation~~
33 ~~made by the department shall be binding for a period of 15 years~~
34 ~~from the date of the original designation.~~

35 ~~(f) This section shall apply only to enterprise zone applications~~
36 ~~for which the department has issued a solicitation for new~~
37 ~~enterprise zone designations on or after January 1, 2007.~~